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**Aspen State Regulation Set: H 7.02 HOME HEALTH AGENCIES**

**ST - H0000 - INITIAL COMMENTS**

**Title** INITIAL COMMENTS

**Statute or Rule**

**Type** Memo Tag

**Regulation Definition**

**Interpretive Guideline**

These guidelines are meant solely to provide guidance to surveyors in the survey process.

**ST - H0001 - Definitions**

**Title** Definitions

**Statute or Rule** 400.462 FS; 59A-8.002

**Type** Memo Tag

**Regulation Definition**

**Interpretive Guideline**

400.462 Definitions. -As used in this part, the term:

(1) " Administrator " means a direct employee, as defined in subsection (9), 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 registered nurse practitioner " means a

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person licensed in this state to practice professional nursing and certified in advanced or specialized nursing practice, as defined in s. 464.003.

(5) " Certified nursing assistant " means any person who has been issued a certificate under part II of chapter 464.

(7) " 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) " 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.

(10) " Director of nursing " means a registered nurse who is a direct employee, as defined in subsection (9), 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 professional nursing and home health aid delivery of services of the agency.

(11) " 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.

(12) " Home health agency " means an organization that

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provides home health services and staffing services.

(14) " Home health services " means health and medical services and medical supplies furnished by an organization to an individual in the individual ' s home or place of residence. The term includes organizations that provide one or more of 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.

(15) " 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, or assists in administering medications as permitted in rule and for which the person has received training established by the agency under s. 400.497(400.497(1)).

(16) " 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.

(19) " 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.

(20) " Medical director " means a physician who is a volunteer with, or who receives remuneration from, a home health agency.

(22) " Organization " means a corporation, government or

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governmental subdivision or agency, partnership or association, or any other legal or commercial entity, any of which involve more than one health care professional discipline; a health care professional and a home health aide or certified nursing assistant; more than one home health aide; more than one certified nursing assistant; or a home health aide and a certified nursing assistant. The term does not include an entity that provides services using only volunteers or only individuals related by blood or marriage to the patient or client.

(24) " 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.

(25) " Physician " means a person licensed under chapter 458, chapter 459, chapter 460, or chapter 461.

(26) " 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. 459.022.458.347 or s. 459.022.

(27) " 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.

(28) " 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

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employed by or under contract with a licensed home health agency or is referred by a licensed nurse registry.

(29) " 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.

59A-8.002 Definitions.

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

(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.

(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.

(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

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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.

(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 r(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. equired in Section 400.487(2), F.S. and included in the plan of care.

(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

**ST - H0103 - Accreditation**

**Title** Accreditation

**Statute or Rule** 400.471(2)(h) F.S.

**Type** Rule

**Regulation Definition**

In the case of an application for initial licensure, documentation of accreditation, or an application for accreditation, from an accrediting organization that is recognized by the agency as having standards comparable to those required by this part and part II of chapter 408. A home health agency that is not Medicare or Medicaid certified and does not provide skilled care is exempt from this paragraph. Notwithstanding s. 408.806, an applicant that has applied for

**Interpretive Guideline**

This applies to applications for new licenses (initial and change of ownership) received July 1, 2008 or later. The HHA must maintain accreditation in order to maintain licensure. This requirement is checked by the AHCA Home Care Unit when reviewing applications for new licensure and the later renewal of new licenses that were issued after July 1, 2008. If the surveyor found an accredited HHA that is no longer accredited that began providing skilled care and had not been provide skilled care, check with the AHCA Home Care Unit. If the HHA applied for its renewal or change of ownership license July 1, 2008 or later and failed to maintain accreditation, this standard would be cited and legal action initiated by the AHCA Home Care Unit to revoke or deny the license.

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accreditation must provide proof of accreditation that is not conditional or provisional within 120 days after the date of the agency ' s receipt of the application for licensure or the application shall be withdrawn from further consideration. Such accreditation must be maintained by the home health agency to maintain licensure. The agency shall accept, in lieu of its own periodic licensure survey, the submission of the survey of an accrediting organization that is recognized by the agency if the accreditation of the licensed home health agency is not provisional and if the licensed home health agency authorizes releases of, and the agency receives the report of, the accrediting organization.

**ST - H0104 - HHA Operational**

**Title** HHA Operational

**Statute or Rule** 400.474(2)(e); 59A-8.008(4)

**Type** Rule

**Regulation Definition**

59A-8.008(4), FAC

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.

400.474, F.S.

(2) Any of the following actions by a home health agency or its employee is grounds for disciplinary action by the agency:  
(e) Failing to provide at least one service directly to a patient for a period of 60 days.

**Interpretive Guideline**

400.474, F.S. Administrative penalties.--

(1) The agency may deny, revoke, and suspend a license and impose an administrative fine in the manner provided in chapter 120.

The HHA must meet this definition of a home health agency. It must have provided home health services directly to at least one patient for a period of at least 60 days. When the HHA office is not open and the surveyor cannot reach anyone through the HHAs phone numbers provided to AHCA, check with the building management company, if possible, to see if the office is still rented. If the office has been closed and is no longer rented, cite this standard, H 104, as not met.

When the surveyor is able to reach the administrator, alternate administrator, director of nursing but no one will come in, cite H 110. When the office is open but the HHA has not had any patients since licensing or since the last periodic survey and it has been 60 days or more, cite H 104.

When the HHA is only staffing with contract employees and/or is not providing any services with directly employed staff, cite H 310.

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Check to see if the Home Care Unit has an application pending to renew the license. If so, the Unit can prepare a Notice of Intent to Deny. If no pending renewal application, the Home Care Unit will prepare a Recommendation for Sanction and submit it to the AHCA General Counsel's office for revocation or fine per 400.474(1)(2)(e), F.S.

**ST - H0105 - Unlicensed Activity**

**Title** Unlicensed Activity

**Statute or Rule** 400.464(4)(b-f); 408.8065(3) FS

**Type** Rule

**Regulation Definition**

400.464(4)(b), F.S.

- (b) The operation or maintenance of an unlicensed home health agency or the performance of any home health services in violation of this part is declared a nuisance, inimical to the public health, welfare, and safety. The agency or any state attorney may, in addition to other remedies provided in this part, bring an action for an injunction to restrain such violation, or to enjoin the future operation or maintenance of the home health agency or the provision of home health services in violation of this part, until compliance with this part or the rules adopted under this part has been demonstrated to the satisfaction of the agency.
- (c) A person who violates paragraph (a) is subject to an injunctive proceeding under s. 408.816. A violation of paragraph (a) or s. 408.812 is a deceptive and unfair trade practice and constitutes a violation of the Florida Deceptive and Unfair Trade Practices Act under part II of chapter 501.
- (d) A person who violates the provisions of paragraph (a) commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Any person who commits a second or subsequent violation commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Each day of continuing violation constitutes a separate offense.
- (e) Any person who owns, operates, or maintains an

**Interpretive Guideline**

In addition to use with complaints of unlicensed activity, this would be cited on an initial survey visit if the applicant was advertising, offering and/or providing services without being licensed yet. This standard also applies if an entity was formerly licensed and let their license expire without renewing the license and was still operating.

A notice of unlicensed activity requiring activity to cease is to be delivered by the surveyor, a process server, or mailed by the field office. If the agency fails to cease operation after notification from AHCA:

- (a) a recommendation for sanction should be submitted by the Home Care Unit to the General Counsel ' s office for the fine per day in 408.812 (4) and (5), or 400.464(4)(f), F.S., or for other legal action as stated in 408.812(5) through (6), F.S. and
- (b) the state attorney in the area should be informed of the unlicensed activity per 400.464(4)(d), F.S. [2nd degree misdemeanor] if the services being provided are not skilled (nursing or therapy) or 408.8065(3), F.S. [3rd degree felony] if services are skilled.



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unlicensed home health agency and who, within 10 working days 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.

(f) Any home health agency that fails to cease operation after agency notification may be fined \$500 for each day of noncompliance.

408.8065(3), F.S In addition to the requirements of s. 408.812, any person who offers services that require licensure under part VII or part X of chapter 400, or who offers skilled services that require licensure under part III of chapter 400, without obtaining a valid license; any person who knowingly files a false or misleading license or license renewal application or who submits false or misleading information related to such application, and any person who violates or conspires to violate this section, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

**ST - H0106 - Satellite**

**Title** Satellite

**Statute or Rule** 59A-8.003(7) & (9), F.A.C.

**Type** Rule

**Regulation Definition**

(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

**Interpretive Guideline**

The location of the satellite office should appear on the home health agency's license and should be reported on the renewal or initial application form. A satellite office means a secondary office established in the same county as the main office and operating under the auspices of the main office [59A-8.002(33)]. Contact the AHCA Home Care Unit if there are questions about the satellite location.

If the agency license copy does not have the satellite office or a correct address for the satellite location, the surveyor should cite the agency under this tag.

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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.

See HZ806 for time frame for reporting change and fine in 59A-35.040, F.A.C. The AHCA Home Care Unit will prepare and send the notice of intent to impose fine.

(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.

**ST - H0107 - Drop Off Site**

**Title** Drop Off Site

**Statute or Rule** 59A-8.003(8), F.A.C.

**Type** Rule

**Regulation Definition**

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

**Interpretive Guideline**

The location of the drop-off site should be reported on the license application. When a drop-off site is found operating as a HHA office, this is unlicensed activity and a notice of unlicensed activity should be given to the HHA. Also cite H 105 unlicensed activity.

A Drop-off site is not an operational office. This information is obtained in the Entrance Conference Interview with the Administrator. No survey visit to this site is made unless surveyor suspects it is actually an operating office.

Note: Drop sites are to be used when distances are too great for staff to drive back frequently to the home health agency. A drop site close to the HHA office does not meet the requirement in this rule.

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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.

**ST - H0110 - Hours of Operation**

**Title** Hours of Operation

**Statute or Rule** 59A-8.003(10), F.A.C.; 408.806(7)(a), FS

**Type** Rule

**Regulation Definition**

59A-8.003(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.
- (e) Failure to be available or to respond, as defined in paragraphs (a) through (c) above, will result in a \$500 fine,

**Interpretive Guideline**

Facility hours of operation should be designated in the policy and procedure manual and on the application. Are the hours of operation the same as those written on the application? Are there 8 consecutive hours? Telecommunications means telephone, cell-phone or beeper. If the administrator and the director of nursing are not on the premises, ask an agency staff person to contact them to let them know that AHCA is at the facility and the survey process has started, obtain information from office personnel, and interview other professional staff present to complete as many items as possible. If the administrator and DON never appear during the survey, and you are unable to satisfactorily complete the survey, you can either cite those areas you're unable to review or you can indicate that the survey was discontinued and a determination was unable to be made.

Were time standards in (c.) met for providing surveyor access to records and list of patients?

If (a), (b), or (c) is not met, submit Recommendation for Sanction (RFS) for \$500 fine to General Counsel's office. Second time is grounds for denial or revocation of license. Contact the Licensed Home Health Programs Unit as to whether an RFS should be done - if renewal application is pending, the Unit can do the denial.

Initial applications for licensing are denied if the provider is not available when the inspection is attempted. The AHCA licensing unit will issue the Notice of Intent to Deny to the applicant.

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pursuant to Section 400.474(1), F.S. A second incident will be grounds for denial or revocation of the agency license.

408.806(7)

(a) An applicant must demonstrate compliance with the requirements in this part, authorizing statutes, and applicable rules during an inspection pursuant to s. 408.811, as required by authorizing statutes.

(d) If a provider is not available when an inspection is attempted, the application shall be denied.

**ST - H0111 - On-Call Staff**

**Title** On-Call Staff

**Statute or Rule** 59A-8.003(10)(d), F.A.C.

**Type** Rule

**Regulation Definition**

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.

**Interpretive Guideline**

Does policy and procedures designate the availability of on-call staff?

Are skilled services provided? If so, who is the RN or RN's on call this week?

If only home health aide or homemaker and companion services are provided, is supervision by phone available during the hours of patient service?

**ST - H0119 - Reporting Abuse, Neglect, Exploitation**

**Title** Reporting Abuse, Neglect, Exploitation

**Statute or Rule** 39.201(1a-d); 39.205(1); 415.1034(1); 41

**Type** Rule

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**Regulation Definition**

39.201, F.S. Mandatory reports of child abuse, abandonment, or neglect; mandatory reports of death; central abuse hotline.-

(1)(a) Any person who knows, or has reasonable cause to suspect, that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child ' s welfare, as defined in this chapter, or that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care shall report such knowledge or suspicion to the department in the manner prescribed in subsection (2).

(b) Any person who knows, or who has reasonable cause to suspect, that a child is abused by an adult other than a parent, legal custodian, caregiver, or other person responsible for the child ' s welfare, as defined in this chapter, shall report such knowledge or suspicion to the department in the manner prescribed in subsection (2).

(c) Any person who knows, or has reasonable cause to suspect, that a child is the victim of childhood sexual abuse or the victim of a known or suspected juvenile sexual offender, as defined in this chapter, shall report such knowledge or suspicion to the department in the manner prescribed in subsection (2).

(d) Reporters in the following occupation categories are required to provide their names to the hotline staff:

1. Physician, osteopathic physician, medical examiner, chiropractic physician, nurse, or hospital personnel engaged in the admission, examination, care, or treatment of persons;
2. Health or mental health professional other than one listed in subparagraph 1.;
3. Practitioner who relies solely on spiritual means for healing;
4. School teacher or other school official or personnel;
5. Social worker, day care center worker, or other professional child care, foster care, residential, or institutional worker;
6. Law enforcement officer; or

**Interpretive Guideline**

Cite this if such reports were not immediately made or were not made by the person who had the direct knowledge or suspicion.

The Field Office would notify the state attorney in the area of the violation since there are criminal penalties for failure to report, as shown in the law quoted in this standard.

\*"Vulnerable adult" means a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, long-term physical, or developmental disability or dysfunctioning, or brain damage, or the infirmities of aging. (415.102(26), F.S.)

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7. Judge

The names of reporters shall be entered into the record of the report, but shall be held confidential and exempt as provided in s. 39.202.

39.205, F.S. Penalties relating to reporting ...-- (1) A person who is required to report known or suspected child abuse, abandonment, or neglect and who knowingly and willfully fails to do so, or who knowingly and willfully prevents another person from doing so, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A judge subject to discipline pursuant to s. 12, Art. V of the Florida Constitution shall not be subject to criminal prosecution when the information was received in the course of official duties.

415.1034, F.S. Mandatory reporting of abuse, neglect, or exploitation of vulnerable adults\*; --

(1) 1) MANDATORY REPORTING.-

(a) Any person, including, but not limited to, any:

1. Physician, osteopathic physician, medical examiner, chiropractic physician, nurse, paramedic, emergency medical technician, or hospital personnel engaged in the admission, examination, care, or treatment of vulnerable adults;
2. Health professional or mental health professional other than one listed in subparagraph 1.;
3. Practitioner who relies solely on spiritual means for healing;
4. Nursing home staff; assisted living facility staff; adult day care center staff; adult family-care home staff; social worker; or other professional adult care, residential, or institutional staff;

415.111, F.S. Criminal penalties.-- (1) A person who knowingly and willfully fails to report a case of known or

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suspected abuse, neglect, or exploitation of a vulnerable adult, or who knowingly and willfully prevents another person from doing so, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

**ST - H0121 - License Number in Ads**

**Title** License Number in Ads

**Statute or Rule** 400.464(4)(a), F.S.

**Type** Rule

**Regulation Definition**

An organization that offers or advertises to the public any service for which licensure or registration is required under this part must include in the advertisement the license number or registration number issued to the organization by the agency. The agency shall assess a fine of not less than \$100 to any licensee or registrant who fails to include the license or registration number when submitting the advertisement for publication, broadcast, or printing. The fine for a second or subsequent offense is \$500. The holder of a license issued under this part may not advertise or indicate to the public that it holds a home health agency or nurse registry license other than the one it has been issued.

**Interpretive Guideline**

As time permits as part of off-site preparation, check area newspaper advertisements, phonebook or website to determine if this criterion is met. On site during the survey, check advertising materials such as brochures at the agency. Newspaper advertising should include the license number. This needs to be cited if the license number is not in the advertising.

Note: This applies only when services are offered. The license number is not required on business cards or stationery where no services are listed. It also doesn't apply to job announcements. Notify the AHCA Home Care Unit and provide copy of ad with no license number. The Home Care Unit will issue the notice of intent to impose to the fine.

**ST - H0122 - Located in ALF**

**Title** Located in ALF

**Statute or Rule** 59A-8.008(6), F.A.C.

**Type** Rule

**Regulation Definition**

59A-8.008(6) If a home health agency occupies space within a licensed assisted living facility, and this space is not licensed

**Interpretive Guideline**

HHA can lease space from an ALF.

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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.

Determine if the space meets the definition of an office. Was the space declared as a satellite, a drop-off site, or is it separately licensed as a HHA? Use of such space would have to meet one of these definitions. If the space is designated as a drop-off site, make sure there is no active patient records stored and there is no business being conducted from this location, such as advertising or patients dropping in.

See H 107 re drop off sites.

**ST - H0123 - Shared Staffing**

**Title** Shared Staffing

**Statute or Rule** 400.497(2), F.S.

**Type** Rule

**Regulation Definition**

Shared staffing. The agency shall allow shared staffing if the home health agency is part of a retirement community that provides multiple levels of care, is located on one campus, is licensed under this chapter or chapter 429, and otherwise meets the requirements of law and rule.

**Interpretive Guideline**

The home health agency and the retirement community is located on the same campus.

**ST - H0124 - Geographic Service Area**

**Title** Geographic Service Area

**Statute or Rule** 59A-8.007(1), F.A.C.;

**Type** Rule

**Regulation Definition**

59A-8.007(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

**Interpretive Guideline**

The approved geographic service area is listed on the official license. Ask the administrator what is the geographic service area of the facility. When reviewing the sample of patient clinical records, check the patient's home address to determine if the address is located within the geographic area shown on the HHA license.

Staffing services can be provided outside of the counties on the license. Staffing is not providing direct services to patients. It is providing personnel to other facilities or business entities, such as nursing homes or school clinics, on a



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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.

temporary basis. The personnel are supervised by the other facility or business entity.

Examples of staffing services:

Example 1: A Nursing Home needs a temporary CNA because a CNA is out on sick leave. Your HHA sends a CNA to work for the nursing home.

Example 2: A HHA lost 2 HH aides last week, one on maternity leave, the other to another job. The HHA requests staffing services from another HHA to get 2 HH aides to come work for its HHA temporarily until it fills its vacancy & the aide comes back from leave. The receiving HHA then supervises the temporary aides & assigns them to provide services. The temporary aides report to the receiving HHA, providing the receiving HHA with records of work provided following the receiving HHA's procedures. These aides are temporary staff for that HHA.

Request a listing of the personnel that are providing staffing services and the hospital, nursing home, school, HHA or other entity where they are currently assigned.

Sample personnel records from the list to determine when each person was placed. Ask to see the contract with the other facility or entity for these personnel. Is the contract between the 2 parties and cover the temporary personnel that have been placed? Are temporary personnel being placed as shown in the examples? Or, is this an on-going staffing arrangement? If an on-going staffing arrangement is found, see H 305.

**ST - H0125 - Geographic Service Area**

**Title** Geographic Service Area

**Statute or Rule** 59A-8.007(3), F.A.C.; 400.464(2)

**Type** Rule

**Regulation Definition**

59A-8.007(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

**Interpretive Guideline**

Is there evidence from complaints, or other sources, that the HHA has refused to provide services to patients in any part of the service area listed on the license? Check the roster of current patients, and the list of patient records discharged/closed within the last 12 months, to determine whether patients are served in all counties shown on the license. If you find an agency has refused to provide services within a certain county (or counties) cite this tag and inform AHCA licensing unit which county (or counties) should be removed from the agency's license.

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license.

400.464

(2) If the licensed home health agency operates related offices, each related office outside the county where the main office is located must be separately licensed. The counties where the related offices are operating must be specified on the license in the main office .

**ST - H0203 - Training on HIV & AIDS**

**Title** Training on HIV & AIDS

**Statute or Rule** 381.0035(1-2), F.S.

**Type** Rule

**Regulation Definition**

(1) The Department of Health shall require all employees and clients of facilities licensed under chapter 393, chapter 394, or chapter 397 and employees of facilities licensed under chapter 395, part II, part III, or part IV of chapter 400, or part I of chapter 429 to complete a one-time educational course on the 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 impact on testing, confidentiality of test results, and treatment of patients and any protocols and procedures applicable to human immunodeficiency counseling and testing, reporting, the offering of HIV testing to pregnant women, and partner notification issues pursuant to ss. 381.004 and 384.25. An employee who has completed the educational course required in this subsection is not required to repeat the course upon changing employment to a different facility licensed under chapter 393, chapter 394, chapter 395, chapter 397, part II, part III, or part IV of chapter 400, or part I of

**Interpretive Guideline**

Review personnel policies to determine if the requirements listed in this standard are included.

Sample personnel files of new home health aides, CNAs, homemakers and companions to make sure that all have taken a course on HIV and AIDS. Existing staff must have taken a course (it is no longer biennial since 2008 Legislature changed the 381.0035 law). The specified length of the course has been removed from 381.0035, F.S.

The Department of Health checks on compliance for nurses and therapists as part of their licensing of those professions.

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chapter 429.

(2) Facilities licensed under chapter 393, chapter 394, chapter 395, or chapter 397, part II, part III, or part IV of chapter 400, or part I of chapter 429 shall maintain a record of employees and dates of attendance at human immunodeficiency virus and acquired immune deficiency syndrome educational courses.

**ST - H0205 - ADRD Information**

**Title** ADRD Information

**Statute or Rule** 400.4785(1), F.S.

**Type** Standard

**Regulation Definition**

400.4785(1), F.S.

(1) A home health agency must provide the following staff training:

(a) Upon beginning employment with the agency, each employee must receive basic written information about interacting with participants who have Alzheimer's disease or dementia-related disorders.

**Interpretive Guideline**

Review written information for required content. Use of informational sheet developed by Florida Health Care Association with the assistance of the Alzheimer's Resource Center of Tallahassee, Florida (posted at the AHCA web site, under "Licensure & Certification," "home health agency") will satisfy this requirement. If other information is disseminated, review for a basic overview of the disease, its progression (especially late stages) and tips on interaction including but not limited to:

- persons with Alzheimer's disease often retain social skills quite far into the illness
- attempt to determine precipitating factors
- identify self and others present
- use the person's name
- get close - touch if appropriate
- speak slowly and clearly
- use simple words & phrases
- do not expect an answer
- do not ask questions requiring memory or reasoning
- do not talk about or over the person
- repeat the same message often and/or write it down
- communicate by "being with"
- foster comfort with music (singing) and tactile objects
- read to the patient

Review personnel files and/or interview staff to verify receipt of required written information.

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and verify information has been provided to employees upon beginning employment.  
Per Department of Elder Affairs (DOEA), volunteers nor contracted persons are considered employees.

A licensed home health agency whose unduplicated census during the most recent calendar year was comprised of at least 90 percent of individuals aged 21 years or younger at the date of admission is exempt from this requirement.  
[400.4785(1)(i), F.S.]

**ST - H0206 - ADRD Training**

**Title** ADRD Training

**Statute or Rule** 400.4785(1)(b & h); 58A-8.001(1); -002(5)

**Type** Rule

**Regulation Definition**

400.4785(1)  
(b) In addition to the information provided under paragraph (a), newly hired home health agency personnel who will be providing direct care to patients must complete 2 hours of training in Alzheimer ' s disease and dementia-related disorders within 9 months after beginning employment with the agency. This training must include, but is not limited to, an overview of dementia, a demonstration of basic skills in communicating with persons who have dementia, the management of problem behaviors, information about promoting the client ' s independence in activities of daily living, and instruction in skills for working with families and caregivers.  
(h) An employee who is hired on or after July 1, 2005, must complete the training required by this section

58A-8.001(1), F.A.C. (1) Each home health agency licensed under Part IV of Chapter 400, F.S., shall ensure that agency employees providing direct care to patients receive the following training.

(a) Completion of the required two hours of training after June 30, 2005, shall satisfy the requirement referenced in Section

**Interpretive Guideline**

Select a sample of staff that provides direct patient care.

Review personnel files for a certificate documenting completion of required training within required time frame.

Per DOEA, volunteers nor contracted persons are considered employees.

A licensed home health agency whose unduplicated census during the most recent calendar year was comprised of at least 90 percent of individuals aged 21 years or younger at the date of admission is exempt from this requirement.  
[400.4785(1)(i), F.S.]

ADRD training curriculum and training providers must be approved by DOEA. DOEA's contractor (the Florida Policy Exchange Center on Aging at the University of South Florida) maintains an updated list of approved home health agency training providers and curricula on their website [www.trainingonaging.usf.edu](http://www.trainingonaging.usf.edu). [400.4785(1)(f), F.S. and 58A-8.002(1), F.A.C.] Providers and curricula approved by DOEA under guidelines for the assisted living facility, nursing home, adult day care center and hospice programs shall be considered approved for home health agency ADRD training purposes. [58A-8.002(6), F.A.C.]

Home health agency staff approved by DOEA as ADRD training providers meets this training requirement.

Upon successful completion of training, the trainee shall be issued a certificate by the approved training provider. The certificate shall include the title of the training, DOEA curriculum approval number, number of training hours, trainee ' s name, dates of attendance, location, training provider's name, DOEA training provider's approval number and

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400.4785(1)(b), F.S. Agency employees who meet the requirements for Alzheimer ' s Disease and Related Disorders training providers under paragraph (c) of this subsection shall be considered as having met this requirement. The two-hour training shall address the following subject areas:

1. Understanding Alzheimer ' s Disease and Related Disorders;
2. Communicating with patients with Alzheimer ' s Disease and Related Disorders;
3. Behavior management;
4. Promoting independence through assistance with activities of daily living; and
5. Developing skills for working with families and caregivers.

dated signature. The training provider's signature on the certificate shall serve as documentation that the training provider has completed the required training pursuant to 400.4785(1), F.S. and Rule 58A-8.001, F.A.C. [58A-8.002(3), F.A.C.]

An employee who has successfully completed a DOEA approved 4-hour Level I and additional 4-hour Level II assisted living facility or 1-hour initial plus additional 3-hour nursing home/adult day care center/hospice ADRD training curricula shall be considered to have met this training requirement. [58A-8.001(2), F.A.C.]

Per DOEA clarification, this training is required only once for each applicable employee.

The certificate is evidence of completion of this training, and the employee is not required to repeat this training if the employee changes employment to a different home health agency. [400.4785(1)(g), F.S.]

The video "Alzheimer's Disease and Related Dementias," jointly produced by National Education Video (NEVCO) and the Associated Home Health Industries of Florida, code ADRD2, meets this curriculum requirement with self-study in a licensed home health agency that has an approved trainer overseeing the process who signed the certificate of completion.

**ST - H0207 - Falsifying Training Records**

**Title** Falsifying Training Records

**Statute or Rule** 400.474(3), F.S.

**Type** Rule

**Regulation Definition**

400.474(3), F.S. The agency shall impose a fine of \$1,000 against a home health agency that demonstrates a pattern of falsifying:

(a) Documents of training for home health aides or certified nursing assistants;

A pattern may be demonstrated by a showing of at least three fraudulent entries or documents. The fine shall be imposed for each fraudulent document or, if multiple staff members are included on one document, for each fraudulent entry on the document.

**Interpretive Guideline**

Verify training:

- if the training was done by the home health agency, check records of the home health agency  
- call the training school and/or check to see if the school is either a public vocational technical school or a licensed non-public career education school.

Also, see H 244 re training of home health aides and H 243 re C.N.A.s.

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**ST - H0216 - Personnel Administrator**

**Title** Personnel Administrator

**Statute or Rule** F.S.; 59A-8.0095(1)(a)

**Type** Rule

**Regulation Definition**

(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.

**Interpretive Guideline**

If administrator is not the person on the licensure application, cite this tag.

Section 400.462 (1), F.S., requires the administrator have 1 year of supervisory or administrative experience in home health care or in a facility licensed under Chapter 395 (hospital or ambulatory surgical center) or under Part II of this chapter (nursing homes), or under Part I of Chapter 429 (assisted living facilities).

See H0217 for information on 400.476.(1)

**ST - H0217 - Personnel - Administrator**

**Title** Personnel - Administrator

**Statute or Rule** 400.476 (1) FS

**Type** Rule

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**Regulation Definition**

400.476(1) ADMINISTRATOR.--

(a) An administrator may manage only one home health agency, except that an administrator may manage up to five home health agencies if all five home health agencies 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. If the home health agency is licensed under this chapter and is part of a retirement community that provides multiple levels of care, an employee of the retirement community may administer the home health agency and up to a maximum of four entities licensed under this chapter or chapter 429 which all have identical controlling interests as defined in s. 408.803. An administrator shall designate, in writing, for each licensed entity, a qualified alternate administrator to serve during the administrator's absence.

**Interpretive Guideline**

If there was a change, check to see if the current administrator is in [www.FloridaHealthFinder.gov](http://www.FloridaHealthFinder.gov). If the name of the current administrator does not match, check with the Home Care Unit to see if an administrator change was reported. Does the administrator manage other home health agencies? How Many? (Cannot exceed 5 HHAs if the requirements in law are met:

A. Do all of the HHAs have "identical controlling interests"? This means that all of the HHAs administered by the one administrator must have: (1) the same licensee; (2) the exact same owners (people and/or entities) with the exact same percentage of ownership; (3) the exact same board of directors (when there is a board of directors); and (4) if there is a management company, have the exact same people or entities with the exact same percentage of ownership in the management company, which manages all of the HHAs. If all of the HHAs do not have identical controlling interests, cite this standard as not met.

B. Where are HHAs located? Same AHCA geographic area? If not, the administrator can only manage a HHA this has its licensed office located in a county that is immediately contiguous to the county in another AHCA geographic service area where the other HHA's licensed office is located (county boundaries must touch). For example: a HHA administrator of a HHA located in Orange County can be the HHA administrator of a HHA located in Lake County but not in Marion County; a HHA administrator in Dade County can be the administrator of a HHA in Broward County but not in Palm Beach County.)

**ST - H0218 - Personnel - Alternate Administrator**

**Title** Personnel - Alternate Administrator

**Statute or Rule** 400.476 (1) FS

**Type** Rule

**Regulation Definition**

400.476(1) ADMINISTRATOR.--

(a) An administrator may manage only one home health agency, except that an administrator may manage up to five home health agencies if all five home health agencies 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. If the home health agency is licensed under this chapter and is part of a retirement community that provides multiple levels of care, an employee

**Interpretive Guideline**

The Home Care Unit checks the alternate administrator for compliance when processing licensure applications. Check for compliance only when there is a change in administrator that has not been reported to the Home Care Unit in the licensing application or by letter.

The alternate administrator needs to be designated in writing. This information may be obtained through the initial entrance interview with the agency administrator. On the survey, if there is a change, review the written designation.

The alternate administrator must meet the same qualifications as the administrator, see H0216.

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of the retirement community may administer the home health agency and up to a maximum of four entities licensed under this chapter or chapter 429 which all have identical controlling interests as defined in s. 408.803. An administrator shall designate, in writing, for each licensed entity, a qualified alternate administrator to serve during the administrator's absence.

**ST - H0219 - Personnel - Administrator**

**Title** Personnel - Administrator

**Statute or Rule** 59A-8.0095(1)(b), F.A.C.

**Type** Rule

**Regulation Definition**

59A-8.0095(1)(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 <mailto: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.

See HZ 821 for time frame for reporting in 59A-35.110(1)

**Interpretive Guideline**

If a new administrator has been appointed since the last survey, ask for documentation that AHCA Home Care Unit was notified of the change.

The time frame for reporting the change is in HZ 821.



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**ST - H0220 - Director of Nursing Qualified**

**Title** Director of Nursing Qualified

**Statute or Rule** 400.476(2) & (9) F.S.

**Type** Rule

**Regulation Definition**

DIRECTOR OF NURSING.-

(a) A director of nursing may be the director of nursing for:

1. Up to two licensed home health agencies if the agencies 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; or
2. Up to five licensed home health agencies if:
  - a. All of the home health agencies have identical controlling interests as defined in s. 408.803;
  - b. All of the home health agencies are located within one agency geographic service area or within an immediately contiguous county; and
  - c. Each home health agency has a registered nurse who meets the qualifications of a director of nursing and who has a written delegation from the director of nursing to serve as the director of nursing for that home health agency when the director of nursing is not present.

If a home health agency licensed under this chapter is part of a retirement community that provides multiple levels of care, an employee of the retirement community may serve as the director of nursing of the home health agency and up to a maximum of four entities, other than home health agencies, licensed under this chapter or chapter 429 which all have identical controlling interests as defined in s. 408.803.

(b) A home health agency that provides skilled nursing care may not operate for more than 30 calendar days without a director of nursing. A home health agency that provides skilled nursing care and the director of nursing of a home health

**Interpretive Guideline**

The Home Care Unit checks the Director of Nursing qualifications when reviewing licensure applications.

A Director of Nursing is not required for home health agencies that are not Medicare or Medicaid certified, or do not provide any skilled services, such as those that provide only home health aide & homemaker companion services, or only therapy services.

A home health agency that provides home health aides services only but not nursing services is not required to have a Director of Nursing but they are required to have a registered nurse available per section 400.487(3), F.S. and 59A-8.0095 (3)(b), F.A.C. (See H 231 & H 240)

If there is a change in the director of nursing since the license was last issued, the surveyor should check for compliance with the standard.

Documentation of qualification for this position should consist of current state registered nursing license, job description, resume and/or employment application that includes evidence of one year of supervision as an RN, and a W-4 or Florida W-2 form. If the DON does not meet the required qualifications then the home health agency should be cited.

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agency must notify the agency within 10 business days after termination of the services of the director of nursing for the home health agency. A home health agency that provides skilled nursing care must notify the agency of the identity and qualifications of the new director of nursing within 10 days after the new director is hired. If a home health agency that provides skilled nursing care operates for more than 30 calendar days without a director of nursing, the home health agency commits a class II deficiency. In addition to the fine for a class II deficiency, the agency may issue a moratorium in accordance with s. 408.814 or revoke the license. The agency shall fine a home health agency that fails to notify the agency as required in this paragraph \$1,000 for the first violation and \$2,000 for a repeat violation. The agency may not take administrative action against a home health agency if the director of nursing fails to notify the department upon termination of services as the director of nursing for the home health agency.

(c) A home health agency that is not Medicare or Medicaid certified and does not provide skilled care or provides only physical, occupational, or speech therapy is not required to have a director of nursing and is exempt from paragraph (b).

**ST - H0223 - Director of Nursing Duties**

**Title** Director of Nursing Duties

**Statute or Rule** 59A-8.0095(2)(a)(b) (c), F.A.C.

**Type** Standard

**Regulation Definition**

(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

**Interpretive Guideline**

This does not apply to home health agencies that only provide home health aide, C.N.A., homemaker and companion services. While therapy-only home health agencies are not required to have a director of nursing, any therapy-only home health agency that has any physical therapist providing wound care would generate biomedical waste and need to comply with biomedical waste requirements as described below.

Review job description on initial survey to determine if the items in the standard are included. If the DON has not

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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](http://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.

changed since the last survey, check the job description and interview to determine if the duties have changed.

Have policies and procedures been established on: biomedical waste (if providing nursing and physical therapy); safety, universal precautions and infection control; and admission to service, case assignments and case management? (check on initial survey)

The home health agency should already have some way of verifying that services were provided.

**ST - H0224 - Director of Nursing QA**

**Title** Director of Nursing QA

**Statute or Rule** 59A-8.0095(2)(e), F.A.C.

**Type** Rule

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**Regulation Definition**

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.

**Interpretive Guideline**

Ask for quality assurance records, logs, minutes, or activity book as well as procedures manual. Interview the DON to determine actual practice. Ask for an example of a problem that was improved based upon the QA program.

**ST - H0225 - Director of Nursing may be Administrator**

**Title** Director of Nursing may be Administrator

**Statute or Rule** 59A-8.0095(2)(f), F.A.C.

**Type** Rule

**Regulation Definition**

59A-8.0095(2)(f), F.A.C. In an agency with less than a total of

**Interpretive Guideline**

If the same person is the Director of Nursing and the Administrator, check to see that the agency does not employ

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10 full time equivalent employees and contracted personnel, the director of nursing may also be the administrator. 400.476(1)(b), F.S. An administrator of a home health agency who is a licensed physician, physician assistant, or registered nurse licensed to practice in this state may also be the director of nursing for a home health agency. An administrator may serve as a director of nursing for up to the number of entities authorized in subsection (2) only if there are 10 or fewer full time equivalent employees and contracted personnel in each home health agency.

more than 10 FTEs (A total of 37-40 hours per week of paid work per FTE, including direct and contract employees)

**ST - H0226 - Director of Nursing Change**

**Title** Director of Nursing Change

**Statute or Rule** 400.476(1), F.S.

**Type** Rule

**Regulation Definition**

400.476(1), F.S.  
(b) A home health agency that provides skilled nursing care may not operate for more than 30 calendar days without a director of nursing. A home health agency that provides skilled nursing care and the director of nursing of a home health agency must notify the agency within 10 business days after termination of the services of the director of nursing for the home health agency. A home health agency that provides skilled nursing care must notify the agency of the identity and qualifications of the new director of nursing within 10 days after the new director is hired. If a home health agency that provides skilled nursing care operates for more than 30 calendar days without a director of nursing, the home health agency commits a class II deficiency. In addition to the fine for a class II deficiency, the agency may issue a moratorium in accordance with s. 408.814 or revoke the license. The agency shall fine a home health agency that fails to notify the agency as required in this paragraph \$1,000 for the first violation and

**Interpretive Guideline**

Determine if the DON left 30 days ago. If so, cite this standard.  
Request a copy of any email or letter sent by the HHA to report the vacancy to the Home Care Unit. Verify that the vacancy was reported to the Home Care Unit.  
If there is a new DON, request a copy of any email or letter with the identity and resume or qualifications sent by the HHA to report the new DON to the Home Care Unit.  
  
The Home Care Unit will do a Recommendation for Sanction to the General Counsel's office for a class II deficiency and additional fines/remedies

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\$2,000 for a repeat violation. The agency may not take administrative action against a home health agency if the director of nursing fails to notify the department upon termination of services as the director of nursing for the home health agency.

(c) A home health agency that is not Medicare or Medicaid certified and does not provide skilled care or provides only physical, occupational, or speech therapy is not required to have a director of nursing and is exempt from paragraph (b).

**ST - H0230 - Personnel - Registered Nurse**

**Title** Personnel - Registered Nurse

**Statute or Rule** 59A-8.0095(3)(a), F.A.C.

**Type** Rule

**Regulation Definition**

59A-8.0095(3) Registered Nurse. (a) A registered nurse shall be currently licensed in the state, pursuant to Chapter 464, F.S., and: ...

2. Be responsible for the clinical record for each patient receiving nursing care; and
3. Assure that progress reports are made to the physician, physician 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.

**Interpretive Guideline**

Was the physician notified when a patient condition changed or deviated from the plan of care. When treatment orders cannot be followed, cite H0302. Otherwise, cite this, if there is failure to notify.

Is a registered nurse responsible for the clinical records of patients receiving nursing care. If an LPN or other staff person is, cite this..

Cite for failure of any registered nurse to provide services within the scope of RN nursing practice and a referral may be made to the Department of Health.

Refer to the Nurse Practice Act

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**ST - H0231 - Personnel - Registered Nurse**

**Title** Personnel - Registered Nurse

**Statute or Rule** 59A-8.0095(3)(b), F.A.C.

**Type** Rule

**Regulation Definition**

59A-8.0095(3)(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.

**Interpretive Guideline**

Interview the Director of Nursing to determine the process for assigning care of patients receiving services from LPNs and home health aides.

When the home health agency does not do any nursing services and therefore does not have a Director of Nursing, interview the registered nurse to determine how assignment of patient care is made. The state law says that supervisory visits to patient homes of home health aide cases cannot be done unless the patient approves and pays (H 0240).

Supervision of LPNs is covered in H0235.

**ST - H0235 - Personnel - Licensed Practical Nurse**

**Title** Personnel - Licensed Practical Nurse

**Statute or Rule** 59A-8.0095(4)(a), F.A.C.

**Type** Rule

**Regulation Definition**

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.

**Interpretive Guideline**

Determine if services provided by LPN's are in accordance with the HHA's professional practice standards and with guidance and supervision from registered nurses. Supervision should be checked in the sampling of patient records that receive LPN services.

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**ST - H0236 - Personnel - Licensed Practical Nurse**

**Title** Personnel - Licensed Practical Nurse

**Statute or Rule** 59A-8.0095(4)(b), F.A.C.

**Type** Rule

**Regulation Definition**

59A-8.0095(4)(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; and
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.

**Interpretive Guideline**

Select and review a random sample of records of patients receiving LPN services for Items (b) 1 through 4.

Cited for any licensed practical nurse failing to provide services within the scope of LPN nursing practice and a referral may be made to the Department of Health.

Refer to the Nurse Practice Act for LPNs

**ST - H0240 - Home Health Aide and CNA Supervision**

**Title** Home Health Aide and CNA Supervision

**Statute or Rule** 59A-8.0095(5)(a-b), 400.487(3),

**Type** Rule

**Regulation Definition**

59A-8.0095(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

**Interpretive Guideline**

Select and review a random sample of records of patients receiving home health aide or certified nursing assistant services. Check personnel files to see if supervision is documented there. Supervision is only at the election and approval of the patient who agrees to pay for the visit. There may be no supervisory visits in the record if the patient did not approve.



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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 .

400.487(3), F.S. A home health agency shall arrange for supervisory visits by a registered nurse to the home of a patient receiving home health aide services in accordance with the patient ' s direction, approval, and agreement to pay the charge for the visits

**ST - H0241 - Personnel - CNA**

**Title** Personnel - CNA

**Statute or Rule** 59A-8.0095(5)(c), F.A.C.

**Type** Rule

**Regulation Definition**

59A-8.0095(5)(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 web site'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.

**Interpretive Guideline**

Sample the personnel records of the CNAs hired since the last visit.

**ST - H0242 - Personnel - Home Health Aide**

**Title** Personnel - Home Health Aide

**Statute or Rule** 59A-8.0095(5)(d-e), F.A.C.

**Type** Rule

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**Regulation Definition**

59A-8.0095(5)(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 paragraph (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;
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

**Interpretive Guideline**

For each home health aide sampled, was training documented or passage of the competency test included?

For relicensure surveys, sample the files of the new aides hired since the last survey. Review the sample of personnel files to ensure appropriate Florida certification for nursing assistants.

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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.

**ST - H0243 - Personnel - Certified Nursing Assistant**

**Title** Personnel - Certified Nursing Assistant

**Statute or Rule** 400.476(3), F.S.

**Type** Rule

**Regulation Definition**

A home health agency shall arrange for supervisory visits by a registered nurse to the home of a patient receiving home health aide services in accordance with the patient ' s direction, approval, and agreement to pay the charge for the visits

**Interpretive Guideline**

Supervision is only at the election and approval of the patient who agrees to pay for the visit. There may be no supervisory visits in the record if the patient did not approve.

**ST - H0244 - Personnel - HH Aide**

**Title** Personnel - HH Aide

**Statute or Rule** 59A-8.0095(5)(f), F.A.C.

**Type** Rule

**Regulation Definition**

(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

**Interpretive Guideline**

Cite this if you determine that the HHA does its own training.

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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 advertise that they are offering " training for home health aides. " The agency can indicate that they are hiring home health aides and will train

**ST - H0245 - Home Health Aide Competency Test**

**Title** Home Health Aide Competency Test

**Statute or Rule** 59A-8.0095(5)(J) FAC.

**Type** Rule

**Regulation Definition**

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

**Interpretive Guideline**

The home health agency competency test alone is not sufficient to meet the federal requirements for Medicare and Medicaid certified home health agencies. Medicare and Medicaid home health agencies must follow the competency evaluation requirements in 42 Code of Federal Regulations 484.36. These federal regulations require additional evaluation of the aide ' s observed performance of tasks with a patient as specified in 484.36(b)(3)(iii). See federal survey standards G 218 through G 222.

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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)(d)15., 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

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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 paragraphs 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.

**ST - H0247 - Home Health Aide and CNA In-Service**

**Title** Home Health Aide and CNA In-Service

**Statute or Rule** 59A-8.0095(5)(k), F.A.C.

**Type** Rule

**Regulation Definition**

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.

**Interpretive Guideline**

HIV and AIDS training is checked with standard H 203.

Review personnel files to document that each aide and CNA has a current CPR Card.

An online renewal of CPR is acceptable only if the staff person completed an in-person skills test from a qualified instructor.

Note: The in-service training only has to be on CPR and HIV. There is no longer any requirement for additional in-service training each calendar year for state licensed only HHAs. HHA may provide other in-service training if they wish. (For HIV the requirement in 59A-8.0185(2)(b) is a one-time course biennially on HIV and AIDS. Cite HIV & AIDS training with standard H 203.)

**ST - H0248 - HH Aide and CNA Responsibilities**

**Title** HH Aide and CNA Responsibilities

**Statute or Rule** 59A-8.0095(5)(l), F.A.C.

**Type** Rule

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**Regulation Definition**

(I) 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

**Interpretive Guideline**

When reviewing patient records, determine if the home health aides and CNAs are performing required tasks and other assigned duties that are within the responsibilities listed.

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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 .

**ST - H0250 - Assistance with Medications Consent**

**Title** Assistance with Medications Consent

**Statute or Rule** 400.488(2) F.S.; 59A-8.0095(5)(n) FAC

**Type** Rule

**Regulation Definition**

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.

**Interpretive Guideline**

When reviewing sampled patient files, look for a written consent in the patient's record for those patients that are getting assistance for medication as permitted in the law. The written consent can be signed by the patient's health care surrogate, guardian or attorney. "Unlicensed person", in this context, is defined as a home health aide or CNA who has received training as described in H-0242, item #16.

Related tag: H0251.

**ST - H0251 - Assistance With Medications Tasks**

**Title** Assistance With Medications Tasks

**Statute or Rule** 400.488(2-4), F.S., 59A-8.0095(5)(o), FA

**Type** Rule

**Regulation Definition**

400.488

**Interpretive Guideline**

Identify and review files of patients receiving assistance with medications to determine compliance with these



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(2) Self administered medications include both legend and over the counter oral dosage forms, topical dosage forms and topical ophthalmic, otic, and nasal dosage forms, including solutions, suspensions, sprays, and inhalers.

provisions. If the surveyor makes a home visit or telephone interview to a patient that is receiving assistance with their medication, the surveyor should ask what the home health aide or CNA does to assist the patient with his or her medications. If the assistance is more than what is permitted under this standard, the HHA should be cited.

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

- (a) Taking the medication, in its previously dispensed, properly labeled container, from where it is stored and bringing it to the patient.
- (b) In the presence of the patient, reading the label, opening the container, removing a prescribed amount of medication from the container, and closing the container.
- (c) Placing an oral dosage in the patient ' s hand or placing the dosage in another container and helping the patient by lifting the container to his or her mouth.
- (d) Applying topical medications.
- (e) Returning the medication container to proper storage.
- (f) Keeping a record of when a patient receives assistance with self-administration under this section.

59A-8.0095(5)(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 s.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.

400.488(4) Assistance with self-administration does not include: (a) Mixing, compounding, converting, or calculating

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medication doses, except for measuring a prescribed amount of liquid doses, except for measuring a prescribed amount of liquid medication or breaking a scored tablet or crushing a tablet as prescribed. (b) The preparation of syringes for injection or the administration of medications by injectable route. (c) Administration of medications through intermittent positive pressure breathing machines or a nebulizer. (d) Administration of medications by way of a tube inserted in a cavity of the body. (e) Administration of parenteral preparations. (f) Irrigations for debriding agents used in the treatment of a skin condition. (g) Rectal, urethral, or vaginal preparations. (h) Medications ordered by the physician or health care professional with prescriptive authority to be given "as needed", unless the order is written with specific parameters that preclude independent judgment on the part of the unlicensed person, and at the request of a competent patient. (i) Medication for which the time of administration, the amount, the strength of dosage, the method of administration, or the reason for administration requires judgment or discretion on the part of the unlicensed person.

**ST - H0252 - Assistance with Medications Assess**

**Title** Assistance with Medications Assess

**Statute or Rule** 59A-8.0095(5)(m) FAC

**Type** Rule

**Regulation Definition**

59A-8.0095(5)(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 (o) 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.

**Interpretive Guideline**

Check the sample of patient records to see if the patients that receive such assistance are medically stable and have regularly scheduled medications that are intended to be self-administered. Was an assessment of the medications conducted by the licensed health care professional before the home health aide or CNA provided the assistance?

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**ST - H0253 - Assistance with Medications Training**

**Title** Assistance with Medications Training

**Statute or Rule** 59A-8.0095(5)(d)15;

**Type** Rule

**Regulation Definition**

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 assuming 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 .

**Interpretive Guideline**

Does the HHA permit any of its HH aides to assist with self-administration of medications? If so, do their personnel files show evidence of 2 hours of training that meets the requirements of 59A-8.0095(5)(d)15?

Note: The training can be classroom training conducted by the HHA or the Associated Home Health Industries of Florida video training on this topic or other training that meets the requirements in this standard.

CROSS REFERENCE TAG 0245 - subparagraph 59A-8.0095(5)(j)1.b.

**ST - H0255 - Personnel - Home Health Aide and CNA**

**Title** Personnel - Home Health Aide and CNA

**Statute or Rule** 59A-8.0095(5)(p), F.A.C.

**Type** Rule

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**Regulation Definition**

59A-8.0095(5)(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 service provision plan.

**Interpretive Guideline**

In the review of patient files, determine if duties and responsibilities carried out by the HHAs and CNAs are appropriate. None of the functions prohibited in this standard should be performed by the HHA or CNA serving the patient.

**ST - H0256 - Personnel - Home Health Aide and CNA**

**Title** Personnel - Home Health Aide and CNA

**Statute or Rule** 59A-8.0095(5)(q), F.A.C.

**Type** Rule

**Regulation Definition**

59A-8.0095(5)(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 s. 464.203, F.S.  
(s) 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.

**Interpretive Guideline**

This standard is used for CNAs, LPNs, & RNs from out of state who wish to work as home health aides. They can do so if they show proof that they were certified (C.N.A.) or licensed in another state.

A screen print from the Dept of Health web site verifying licensure of the person is sufficient.

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**ST - H0260 - Personnel - PT and PT Assistant**

**Title** Personnel - PT and PT Assistant

**Statute or Rule** 59A-8.0095(6), F.A.C.

**Type** Rule

**Regulation Definition**

59A-8.0095(6)(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 enables the physical therapist to be readily available for consultation during the delivery of care.

**Interpretive Guideline**

Documentation should consist of current state license for the Physical Therapists and Physical Therapist Assistants (PTA). Determine if there is a PT to provide supervision for any PTAs.

To document supervision of the PTA, interview a sample of PTAs regarding the extent of supervision he or she receives, as time permits.

Review the job description of the PT and PTA.

Physical Therapy Practice Act, Chapter 486, F.S.

See also state rule 64B17-6, FAC, for Minimum Standards of Practice for physical therapists assistants

**ST - H0261 - Physical Therapist**

**Title** Physical Therapist

**Statute or Rule** 59A-8.0095(6)(b), F.A.C.

**Type** Rule

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**Regulation Definition**

59A-8.0095(6)(b), F.A.C. 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.

**Interpretive Guideline**

Are clinical record notes current, and do they describe responses to therapy?

Determine how the HHA coordinates therapy services with other skilled services per (b) 4 to complete the plan of care and promote positive therapeutic outcomes.

Review clinical records of patients receiving these services, to determine if items 1-5 are being met.

Interview the patient if selected for a home visit and also interview the physical therapist, if available.

Since state law change permits ARNPs and physician assistants (PA) to sign orders, the law removes the limit to physician in the rules. Thus, an ARNP or PA can prescribe physical therapy and could receive reports.

Physical Therapy Practice Act, Chapter 486, F.S.

See also state rule 64B17-6, FAC, for Minimum Standards of Practice for physical therapists:

<https://www.flrules.org/gateway/ChapterHome.asp?Chapter=64B17-6>

**ST - H0265 - Speech Pathologist**

**Title** Speech Pathologist

**Statute or Rule** 59A-8.0095(7), F.A.C.

**Type** Rule

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**Regulation Definition**

59A-8.0095(7) 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.

**Interpretive Guideline**

Documentation should consist of current state license and evidence of employment or contractual history. On the initial survey, review the job description of the primary SLP.

Review any contractual agreement.

Review clinical records to determine if clinical records are current, and do they describe responses to therapy?

If a patient receiving SLP is selected for home visit, interview them to determine the adequacy of the service.

Determine how the HHA coordinates speech therapy services with other skilled services in (7) (d), to complete the plan of care and promote positive therapeutic outcomes.

Since state law permits ARNPs and physician assistants (PA) to sign orders, the law removes the limit to physician in the rules. Thus, an ARNP or PA can prescribe speech therapy and could receive reports.

**ST - H0266 - Personnel - Occupational Therapist and Assist**

**Title** Personnel - Occupational Therapist and Assist

**Statute or Rule** 59A-8.0095(8)(a), F.A.C.

**Type** Rule

**Regulation Definition**

59A-8.0095(8)(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.

**Interpretive Guideline**

Documentation should consist of current state license.

Occupational Therapy Practice Act, Chapter 468, F.S.:

See also state rule 64B11-4, FAC, for Standards of Practice for occupational therapy:

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**ST - H0267 - Occupational Therapist and Assistant**

**Title** Occupational Therapist and Assistant

**Statute or Rule** 59A-8.0095(8)(b), F.A.C.

**Type** Rule

**Regulation Definition**

59A-8.0095(8)(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.

**Interpretive Guideline**

Did the physician, ARNP, or PA order the care for the OT services and designate the frequency of visits? In the patient record reviews determine if Items (b) 1 through 4 are being completed.

Occupational Therapy Practice Act, Chapter 468, F.S.:

See also state rule 64B11-4, FAC, for Standards of Practice for occupational therapy:

**ST - H0270 - Respiratory Therapist**

**Title** Respiratory Therapist

**Statute or Rule** 59A-8.0095(9)(a), F.A.C.

**Type** Rule

**Regulation Definition**

59A-8.0095(9)(a) The respiratory therapist shall be currently

**Interpretive Guideline**

Documentation should consist of current state license, and evidence of employment or contractual history of the



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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.

individual.

Ask the administrator or the director of nursing how the home health agency coordinates respiratory therapy services with other skilled services to determine if items (b) 1 through 5 are being done to complete the care and promote positive therapeutic outcomes.

Review clinical records of patients receiving these services to determine if items (b) 1 through 5 are being done and if records are current, describing responses to treatment.

State law permits ARNPs and physician assistants (PA) to sign orders in addition to physicians. Thus, an ARNP or PA can prescribe RT and could receive reports. Did the physician, ARNP or physician's assistant order the care for RT service and determine the frequency of visits?

**ST - H0275 - Personnel - Social Worker**

**Title** Personnel - Social Worker

**Statute or Rule** 59A-8.0095(10)(a), F.A.C.

**Type** Rule

**Regulation Definition**

59A-8.0095(10)(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

**Interpretive Guideline**

Documentation should consist of educational degree and evidence of the employment history of the individual. Did the physician, ARNP or PA order the care for SW services and determine the frequency of visits? Review the clinical record to determine if items (a) 1 through 5 are met. Are clinical record notes current and do they describe the patient's response to care?

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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 or her disability.

**ST - H0276 - Personnel - Social Worker**

**Title** Personnel - Social Worker

**Statute or Rule** 59A-8.0095(10)(b), F.A.C.

**Type** Rule

**Regulation Definition**

59A-8.0095(10)(b) The social worker shall not provide clinical counseling to patients or caregivers unless licensed pursuant to Chapter 491, F.S.

**Interpretive Guideline**

If counseling is offered, look for a copy of the clinical social worker license in the personnel record of the social worker.

**ST - H0280 - Personnel - Dietitian/Nutritionist**

**Title** Personnel - Dietitian/Nutritionist

**Statute or Rule** 59A-8.0095(11)(a), F.A.C.

**Type** Rule

**Regulation Definition**

59A-8.0095(11)(a) The dietitian/nutritionist shall be currently licensed in this state with at least 1 year of experience in dietetics and nutrition practice.

**Interpretive Guideline**

Documentation should consist of educational degree and evidence of the employment or contractual history of the individual.

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**ST - H0281 - Dietitian/Nutritionist**

**Title** Dietitian/Nutritionist

**Statute or Rule** 59A-8.0095(11)(b), F.A.C.

**Type** Rule

**Regulation Definition**

59A-8.0095(11)(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.

**Interpretive Guideline**

Review job descriptions or contracts to assure that these responsibilities are included.

State law permits ARNPs and physician assistants (PA) to sign orders in addition to physicians. Thus, an ARNP or PA can order this service and could receive reports. Did the physician, ARNP or physician's assistant order the care needed and determine the frequency of visits?

Review clinical record of patients receiving these services to determine if the record facilitates effective, efficient and coordinated care.

Are clinical record notes current and do they describe the patient's response to care?

**ST - H0291 - Homemakers**

**Title** Homemakers

**Statute or Rule** 59A-8.0095(12)(a), F.A.C.

**Type** Rule

**Regulation Definition**

59A-8.0095(12)(a) The homemaker shall:

1. Maintain the home in an optimum state of cleanliness and

**Interpretive Guideline**

From the sample of client records review homemakers are not performing personal care services, or duties usually assigned to home health aides.

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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.

Review homemakers records to determine if activities are appropriate and within those listed in the rule. Determine through interviews with the administrator, how and to whom are incidents or changes in patient's condition reported.

**ST - H0292 - Companions**

**Title** Companions

**Statute or Rule** 59A-8.0095(12)(c), F.A.C.

**Type** Rule

**Regulation Definition**

59A-8.0095(12)(b) The companion shall:

1. Provide companionship for the client;
2. Accompany the client to doctor 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;

**Interpretive Guideline**

Review records to determine whether companions are performing tasks that are within those permitted in the rule in the Regulation Definition. Companions cannot provide hands on personal care. Review patient contracts. Look to ensure that no personal care is included. Ask the administrator how and to whom incidents or changes in patient behavior are reported.

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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 client ' 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.

**ST - H0294 - Inappropriate Staffing**

**Title** Inappropriate Staffing

**Statute or Rule** 400.474(6)(a), F.S.

**Type** Rule

**Regulation Definition**

400.474(6), F.S. The agency may deny, revoke, or suspend the license of a home health agency and shall impose a fine of \$5,000 against a home health agency that:

(a) Gives remuneration for staffing services to:

1. Another home health agency with which it has formal or informal patient-referral transactions or arrangements; or
2. A health services pool with which it has formal or informal patient-referral transactions or arrangements, unless the home health agency has activated its comprehensive emergency management plan in accordance with s. 400.492. This paragraph does not apply to a Medicare-certified home health agency that provides fair market value remuneration for staffing services to a non-Medicare-certified home health agency that is part of a continuing care facility licensed under chapter 651 for providing services to its own residents if each resident receiving home health services pursuant to this arrangement attests in writing that he or she made a decision without influence from staff of the facility to select, from a list of Medicare-certified home health agencies provided by the

**Interpretive Guideline**

This standard pertains to "formal or informal patient-referral transactions or arrangements" that a HHA may have with:

- (1) another HHA -- such as a non-certified HHA that provides Medicare patient referrals to a certified HHA if the HHA will use the non-certified HHA's staff.
  
- (2) a health care services pool - a HHA should not be getting patients from a health care services pool  
Review contracts with other HHAs and health care services pools. Do the contracts agree to use the HHA or pool's staff in exchange for referrals?

This standard will not apply to a Medicare-certified HHA that provides fair market value remuneration for staffing services to a non-Medicare-certified HHA that is part of a continuing care facility licensed under Chapter 651, F.S. for providing services to its own residents -- if each resident receiving home health services attests in writing that he or she made a decision without influence from staff of the facility to select, from a list of Medicare-certified home health agencies provided by the facility, that Medicare-certified HHA to provide this service.

A continuing care facility licensed under Chapter 651, also known as a "continuing care retirement community," provides residence & nursing &/or personal care to residents under a continuing care contract. Such a facility or community generally contains all levels of care on the same campus- nursing home, assisted living, independent

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facility, that Medicare-certified home health agency to provide the services.

living.

Continuing care facilities can be verified at the Office of Insurance Regulation web site: - enter name and for "company type" pick "continuing care retirement community".

**ST - H0301 - Patient Assessment**

**Title** Patient Assessment

**Statute or Rule** 400.487(1), F.S.

**Type** Rule

**Regulation Definition**

.... A home health agency providing skilled care must make an assessment of the patient 's needs within 48 hours after the start of services.

**Interpretive Guideline**

When reviewing patient records check to see that an assessment was made within 48 hours of the start of services for patients receiving skilled care (nursing, PT, OT, ST). The assessment for patients receiving only therapy may be done by a therapist.

This standard does not apply to home health agencies that only provide home health aide, C.N.A., homemaker and companion services.

**ST - H0302 - Treatment Orders**

**Title** Treatment Orders

**Statute or Rule** 400.487(2), F.S.; 59A-8.0215(2) FAC

**Type** Rule

**Regulation Definition**

400.487(2), F.S. When required by the provisions of chapter 464; part I, part III, or part V of chapter 468; or chapter 486, the attending physician, physician assistant, or advanced registered nurse practitioner, acting within his or her respective scope of practice, shall establish treatment orders for a patient who is to receive skilled care. The treatment orders must be signed by the physician, physician assistant, or advanced registered nurse practitioner before a claim for

**Interpretive Guideline**

Did the physician, ARNP, or PA sign the treatment order as required by law? Was it reviewed by a physician, ARNP, or PA when needed? In the records reviewed, does HHA staff follow orders? If the orders were altered, was the physician, ARNP, or PA notified and did they approve? Were verbal orders put in writing by the nurse or therapist?

This standard does not apply to home health agencies that only provide home health aide, C.N.A., homemaker and companion services.

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payment for the skilled services is submitted by the home health agency. If the claim is submitted to a managed care organization, the treatment orders must be signed within the time allowed under the provider agreement. The treatment orders shall be reviewed as frequently as the patient's illness requires, by the physician, physician assistant, or advanced registered nurse practitioner in consultation with the home health agency.

59A-8.0215(2) Home health agency staff must follow the physician's, 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's, physician assistant, or advanced registered nurse practitioner's office.

**ST - H0304 - Written Agreement**

**Title** Written Agreement

**Statute or Rule** 400.487(1), F.S.; 59A-8.020(2) FAC

**Type** Rule

**Regulation Definition**

400.487(1)  
Services provided by a home health agency must be covered by an agreement between the home health agency and the patient or the patient's legal representative specifying the home health services to be provided, the rates or charges for services paid with private funds, and the sources of payment, which may include Medicare, Medicaid, private insurance, personal funds, or a combination thereof. ...

**Interpretive Guideline**

Review a sampling of patient files. Any document signed by the patient that has the three required items can be used as an agreement. Is there a copy of the signed agreement in each file?

Since state law change permits ARNPs and physician assistants (PA) to sign orders, the law removes the limit to physician in the rules.

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(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.

**ST - H0305 - Responsibility over Contractors**

**Title** Responsibility over Contractors

**Statute or Rule** 400.487(5);

**Type** Rule

**Regulation Definition**

400.487(5) When nursing services are ordered, the home health agency to which a patient has been admitted for care must provide the initial admission visit, all service evaluation visits, and the discharge visit by a direct employee. Services provided by others under contractual arrangements to a home health agency must be monitored and managed by the admitting home health agency. The admitting home health agency is fully responsible for ensuring that all care provided through its employees or contract staff is delivered in

**Interpretive Guideline**

Review patient files.

Ask the Administrator or DON how the HHA monitors and manages care provided by contract agencies.

If this a home health agency that only provides home health aide/C.N.A., homemaker, companion type services, the first sentence of 400.487(5), F.S., does not apply, but the other two sentences regarding responsibility over contractors do apply. This type of home health agency is not required to have a DON, but is required to have a nurse. The nurse or the administrator should be asked how the HHA monitors and manages care provided by contract agencies.



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accordance with this part and applicable rules.

When a HHA subcontracts with another HHA to provide some of the services to the patient, the HHA contracted with has a record of the services it provides to the patient and furnishes records of the services it provided to the primary HHA. It also has a copy of the plan of care.

The Home Care Unit may submit a recommendation for a fine or other administrative action per state rule when 400.487(5), F.S., is not met. This includes monitoring and managing any services provided by others; and using a direct employee nurse to perform the initial admission visit, service evaluation visit and discharge visit when nursing services are provided.

**ST - H0306 - Plan of Care**

**Title** Plan of Care

**Statute or Rule** 400.487(6), F.S.

**Type** Rule

**Regulation Definition**

400.487(6) The skilled care services provided by a home health agency, directly or under contract must be supervised and coordinated in accordance with the plan of care.

**Interpretive Guideline**

Review patient files.

Ask the Administrator or DON how the HHA monitors and manages care provided by contract agencies.

If this a home health agency that only provides home health aide/C.N.A., homemaker, companion type services, the first sentence of 400.487(5), F.S., does not apply, but the other two sentences regarding responsibility over contractors do apply. This type of home health agency is not required to have a DON, but is required to have a nurse. The nurse or the administrator should be asked how the HHA monitors and manages care provided by contract agencies.

When a HHA subcontracts with another HHA to provide some of the services to the patient, the HHA contracted with has a record of the services it provides to the patient and furnishes records of the services it provided to the primary HHA. It also has a copy of the plan of care.

The Home Care Unit may submit a recommendation for a fine or other administrative action per state rule when 400.487(5), F.S., is not met. This includes monitoring and managing any services provided by others; and using a direct employee nurse to perform the initial admission visit, service evaluation visit and discharge visit when nursing services are provided.

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**ST - H0307 - Case Management of Nursing Services**

**Title** Case Management of Nursing Services

**Statute or Rule** 59A-8.008(1);

**Type** Rule

**Regulation Definition**

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.

**Interpretive Guideline**

Is case management listed in the job description of the director of nursing or the RN providing case management?

An LPN cannot be the case manager.

If nursing is not ordered and therapy is, the therapist will serve as the case manager.

**ST - H0308 - Therapy-Only Case Management of Services**

**Title** Therapy-Only Case Management of Services

**Statute or Rule** 59A-8.008(2), F.A.C.

**Type** Rule

**Regulation Definition**

59A-8.008(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.

**Interpretive Guideline**

Determine how the HHA provides case management of patients with therapy only services (PT/ST/OT). To verify direct employment in personnel records look for IRS W-2 or 4 Forms. For contractors look for IRS Form 1099 that are issued to individuals or to groups of therapists in association with each other. (If available for interview, ask the therapist).

**ST - H0309 - Dietitian/Nutritionist Case Management**

**Title** Dietitian/Nutritionist Case Management

**Statute or Rule** 59A.8.008(3), F.A.C.

**Type** Rule

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**Regulation Definition**

59A-8.008(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.

**Interpretive Guideline**

Determine how the HHA provides case management of patients receiving dietitian/nutrition services. To verify direct employment in personnel records look for IRS W-2 or 4 Forms. For independent contractors look for IRS Form 1099 that are issued to individuals or to groups in association with each other.

**ST - H0310 - Direct Services**

**Title** Direct Services

**Statute or Rule** 400.474(2)(e)

**Type** Rule

**Regulation Definition**

(2) Any of the following actions by a home health agency or its employee is grounds for disciplinary action by the agency:  
(e) Failing to provide at least one service directly to a patient for a period of 60 days.

**Interpretive Guideline**

The HHA licensure application specifies which services will be provided directly and by contract. The surveyor should verify with the HHA which services are provided directly and which are provided by contract. Services may be provided by both employees and contractors. There is no requirement in state law or rules that at least one service, in its entirety, must be provided directly. A service may be provided partly by direct employees and partly by contractors.

If nursing is provided, the admission, evaluation, and discharge visits must be provided by a direct employee as stated in H 305. A direct employee nurse that only does patient assessments is not providing nursing care. If the only direct employee is the RN that performs patient assessments, this is not met. Cite when the HHA is only staffing or providing services with contract employees and/or is not providing any services with directly employed staff.

**ST - H0311 - Serving patients in unlicensed facilities**

**Title** Serving patients in unlicensed facilities

**Statute or Rule** 400.474(2)(c) FS

**Type** Rule

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**Regulation Definition**

(2) Any of the following actions by a home health agency or its employee is grounds for disciplinary action by the agency:  
(c) Knowingly providing home health services in an unlicensed assisted living facility or unlicensed adult family-care home, unless the home health agency or employee reports the unlicensed facility or home to the agency within 72 hours after providing the services.

**Interpretive Guideline**

Cite when a licensee was found to be providing services to clients in an unlicensed facility and did not report the facility to AHCA.

If the HHA knowingly provided services without reporting the unlicensed facility within 72 hours, a Recommendation for Sanction to the General Counsel will be done by the Home Care Unit to fine or revoke the license.

**ST - H0312 - Scope of Services-ALF/AFCH**

**Title** Scope of Services-ALF/AFCH

**Statute or Rule** 59A-8.008(5), F.A.C.

**Type** Rule

**Regulation Definition**

59A-8.008(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.

**Interpretive Guideline**

[Cross-reference this tag with ALF 304 or ALF 700, depending on the circumstances]. Check only when the home health agency serves Adult Living Facility (ALF) or Adult Family Care Home (AFCH) patients. Determine if the ALF is classified as an Extended Congregate Care or Limited Nursing Service. If so, they are required to have a registered nurse, nursing assistants, or home health aides on staff to provide certain services. If the resident needs services from an HHA that is not covered by the ALF, the resident or his family must choose the HHA who may bill the appropriate source for payment. The HHA may not duplicate services the ALF is suppose to provide its residents and may not bill Medicare, Medicaid or private insurance for services provided under contract between the ALF and the resident. Ask the patient (or the HHA if the patient does not know) how payment for service is made. Review the contract between the ALF and resident. Cite, when duplication is suspected, if the contract states or implies that the ALF is to provide a particular nursing services that the resident is paying the HHA to provide.

**ST - H0315 - Acceptance of Patients or Clients**

**Title** Acceptance of Patients or Clients

**Statute or Rule** 59A-8.020(1) FAC;

**Type** Rule

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**Regulation Definition**

59A-8.020(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.

**Interpretive Guideline**

Review the plan of care for sampled patients to determine if the HHA is providing the appropriate services as requested by the physician, ARNP or physician assistant. For patients not receiving skilled care, are services provided as specified in the written agreement followed for the services?

Cite when patients are sent staff that do not speak the same language and cannot care for the patient safely.

Failure to provide services, including missed visits or failure to provide the services as ordered, should be cited, classed and a Recommendation for Sanction for a fine per class (class I, II, III or IV per patient per 400.484 (2), F.S.) submitted to the General Counsel Office.

**ST - H0316 - Termination of Services**

**Title** Termination of Services

**Statute or Rule** 59A-8.020(4), FAC

**Type** Rule

**Regulation Definition**

59A-8.020(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

**Interpretive Guideline**

Review records of patients who have been discharged by the HHA that still need home health services. Look for evidence that the patient was informed in writing of the plan to discontinue services with the date and reason for termination.

Determine if arrangements were made for home health services to be continued by another HHA or other resources in the community.

Termination of services without arranging for services from another HHA - if client/patient is still eligible for services

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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 s.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 s.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.

and this is not an issue of non-payment - is violation. If social work assistance was not offered to help the patient obtain services from any government funded programs when their private funds are being depleted, this is also a violation. The violation should be classed and a Recommendation for Sanction for fine per patient per 400.484(2), F.S. should be submitted to General Counsel Office.

**ST - H0317 - Pattern of Failing to Provide Services**

**Title** Pattern of Failing to Provide Services

**Statute or Rule** 400.474(5), F.S.

**Type** Rule

**Regulation Definition**

400.474(5) The agency shall impose a fine of \$5,000 against a home health agency that demonstrates a pattern of failing to provide a service specified in the home health agency's written agreement with a patient or the patient's legal representative, or the plan of care for that patient, unless a reduction in service is mandated by Medicare, Medicaid, or a state program or as provided in s. 400.492(3).

A pattern may be demonstrated by a showing of at least three incidences, regardless of the patient or service, where the home health agency did not provide a service specified in a written agreement or plan of care during a 3-month period. The agency shall impose the fine for each occurrence.

**Interpretive Guideline**

There is a required fine of \$5,000 for any HHA that demonstrates a "pattern" of failing to provide a service specified in the HHA's written agreement with a patient or the plan of care for that patient.

The "pattern" of failing to provide a service may include failures for one patient or multiple patients. Examples:

- A failure to provide a service for Patient A and two failures to provide a service for Patient B, all within a three-month period, constitutes a "pattern" of failures
- Three failures to provide services to Patient C, four failures to provide services to Patient D, and one failure to provide services to Patient E, all within a three-month period, that also constitutes a "pattern" of failures.

If there is failure to provide services to multiple patients, that is not corrected on follow up, The Home Care Unit can request revocations or deny renewal of the license if expiration of the agency's license is within a few months.

This deficiency should not be classified because the fine is mandated without regard to the risk of harm to a patient.

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The agency may also impose additional administrative fines under s. 400.484 for the direct or indirect harm to a patient, or deny, revoke, or suspend the license of the home health agency for a pattern of failing to provide a service specified in the home health agency's written agreement with a patient or the plan of care for that patient.

This is not cited if:

1. There were only one or two times that a service was not provided or failed to be provided as ordered;
2. A reduction in service is mandated by Medicare, Medicaid, or a state program; or
3. An emergency situation beyond the control of the HHA, per 400.492(3), F.S., such as a hurricane or flood that makes roads impassable.

See H 315 and H 316 for failing to provide services.

**ST - H0320 - Plan of Care**

**Title** Plan of Care

**Statute or Rule** 59A-8.0215(1), F.A.C.; 400.487(2) FS

**Type** Rule

**Regulation Definition**

59A-8.0215(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 that will provide care, the frequency of home visits to provide direct care and case management.

400.487(2), F.S. ... the attending physician, physician assistant, or advanced registered nurse practitioner, acting within his or her respective scope of practice, shall establish treatment orders for a patient who is to receive skilled care.

**Interpretive Guideline**

Review patient records to determine the start of care date.

Review to ensure that the HHA is following specific orders of the physician, ARNP, PA, such as the range of services, and frequency of visits, and if the physician, ARNP, PA is being notified of changes in the patient's condition.

This standard does not apply to patients receiving only home health aide, C.N.A., homemaker or companion services. A plan of care is only required for patients receiving skilled care.

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**ST - H0321 - Right to Participate in Planning**

**Title** Right to Participate in Planning

**Statute or Rule** 59A-8.0215(3), F.A.C.; 400.487(4), FS

**Type** Rule

**Regulation Definition**

59A-8.0215(3) The patient, caregiver or guardian must be informed by the home health agency personnel that: (a) he or she has the right to be informed of the plan of care; (b) he or she has the right to participate in the development of the plan of care; and (c) he or she may have a copy of the plan if requested.

400.487(4) Each patient has the right to be informed of and to participate in the planning of his care. Each patient must be provided, upon request a copy of the plan of care established and maintained for that patient by the home health agency.

**Interpretive Guideline**

Review patient records to determine the start of care date.

Review to ensure that the HHA is following specific orders of the physician, ARNP, PA, such as the range of services, and frequency of visits, and if the physician, ARNP, PA is being notified of changes in the patient's condition.

This standard does not apply to patients receiving only home health aide, C.N.A., homemaker or companion services. A plan of care is only required for patients receiving skilled care.

**ST - H0322 - Advance Directives**

**Title** Advance Directives

**Statute or Rule** 59A-8.0245(2), F.A.C.

**Type** Rule

**Regulation Definition**

59A-8.0245(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

**Interpretive Guideline**

Review HHA policies and procedures concerning Advance Directives.

Review packet of information provided to the patient on admission to ensure this information is included.

Look for documentation in the sample of patient records that advance directives information was offered to the patient. During interviews with patients/staff ask how the HHA ensures that patients make decisions about their medical care, accept or refuse medical or surgical treatment and if the HHA places conditions upon the provision of care.



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directive, provision should be made in accordance with Chapter 765, Florida Statutes. (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 advanced 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 s. 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 s. 765.110, F.S.

**ST - H0323 - DNRO**

**Title** DNRO

**Statute or Rule** 400.487(7), F.S.; 59A-8.0245(3) FAC

**Type** Rule

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**Regulation Definition**

400.487(7) Home health agency personnel may withhold or withdraw cardiopulmonary resuscitation if presented with an order not to resuscitate executed pursuant to s. 401.45. ... Home health personnel and agencies shall not be subject to criminal prosecution or civil liability, nor be considered to have engaged in negligent or unprofessional conduct, for withholding or withdrawing cardiopulmonary resuscitation pursuant to such an order and rules adopted by the agency.

59A-8.0245(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.

**Interpretive Guideline**

Review HHA policies and procedures concerning Advance Directives.

Review packet of information provided to the patient on admission to ensure this information is included.

Look for documentation in the sample of patient records that advance directives information was offered to the patient. During interviews with patients/staff ask how the HHA ensures that patients make decisions about their medical care, accept or refuse medical or surgical treatment and if the HHA places conditions upon the provision of care.

**ST - H0331 - Fraudulent Patient Records**

**Title** Fraudulent Patient Records

**Statute or Rule** 400.474(2)(d), F.S.

**Type** Rule

**Regulation Definition**

(2) Any of the following actions by a home health agency or its employee is grounds for disciplinary action by the agency:  
(d) Preparing or maintaining fraudulent patient records, such as, but not limited to, charting ahead, recording vital signs or symptoms that were not personally obtained or observed by the home health agency ' s staff at the time indicated, borrowing patients or patient records from other home health

**Interpretive Guideline**

If fraudulent patient records are found when reviewing patient records or on home visits, or if patients or records were borrowed, this standard is cited and a recommendation for sanction (revocation or suspension and fine) is submitted by the Home Care Unit to the General Counsel.

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agencies to pass a survey or inspection, or falsifying signatures

**ST - H0350 - Clinical Records**

**Title** Clinical Records

**Statute or Rule** 400.491(1), F.S.

**Type** Rule

**Regulation Definition**

400.491(1) The home health agency must maintain for each patient who receives skilled care a clinical record that includes pertinent past and current medical, nursing, social and other therapeutic information, the treatment orders, and other such information as is necessary for the safe and adequate care of the patient. When home health services are terminated, the record must show the date and reason for termination...

**Interpretive Guideline**

The clinical record should provide a current description of treatment, including services provided for the HHA by arrangement or contract. The clinical record should facilitate effective and coordinated care.

This standard does not apply to patients receiving only home health aide, C.N.A., homemaker or companion services.

**ST - H0351 - Patient Records Confidential**

**Title** Patient Records Confidential

**Statute or Rule** 400.494(1), F.S.

**Type** Rule

**Regulation Definition**

400.494(1) Information about patients received by persons employed by, or providing services to, a home health agency or received by the licensing agency through reports or inspection shall be confidential and exempt from the provisions of s. 119.07(1) and shall only be disclosed to any person other than the patient, as permitted under the provisions of 45 C.F.R. ss. 160.102, 160.103, and 164, subpart A, commonly referred to as the HIPAA Privacy Regulation; except that clinical records described in ss. 381.004, 384.29, 385.202, 392.65, 394.4615, 395.404,

**Interpretive Guideline**

Determine how records are made available to those furnishing services on behalf of the HHA staff/contract providers. Determine if policy and procedures address how the HHA ensures confidentiality of the patient's clinical record.

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397.501, and 760.40 shall be disclosed as authorized in those sections.

**ST - H0352 - Clinical Records Transfers**

**Title** Clinical Records Transfers

**Statute or Rule** 400.491(1), F.S.

**Type** Rule

**Regulation Definition**

400.491(1)... If the patient transfers to another home health agency, a copy of his or her record must be provided to the other home health agency upon request.

**Interpretive Guideline**

Do the policies and procedures describe how clinical records will be transferred, if requested?

**ST - H0353 - Clinical Record Retention**

**Title** Clinical Record Retention

**Statute or Rule** 400.491(1), F.S.

**Type** Rule

**Regulation Definition**

400.491(1)... Such records are considered patient records under s. 400.494, and must be maintained by the home health agency for 6 years following termination of services.  
59A-8.022 (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.

**Interpretive Guideline**

Are skilled care records being maintained for 6 years following termination of services?  
Are closed records retrievable if needed for use during surveys?

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**ST - H0355 - Records for Non-Skilled Care**

**Title** Records for Non-Skilled Care

**Statute or Rule** 400.491(2), F.S.

**Type** Rule

**Regulation Definition**

400.491(2) The HHA must maintain for each client who receives non-skilled care a service provision plan. Such records must be maintained by the HHA for 3 years following termination of services.

**Interpretive Guideline**

Are records for non-skilled care being maintained for 3 years following termination of services?  
Is a service provision plan or written agreement in the records for each non-skilled patient?

"Non-skilled" refers to patients receiving only home health aide, C.N.A., homemaker or companion services.

**ST - H0356 - Clinical Records Contents**

**Title** Clinical Records Contents

**Statute or Rule** 59A-8.022(5-6), F.A.C.

**Type** Rule

**Regulation Definition**

59A-8.022(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, and date of birth, sex, agency case number, caregiver, next of kin or guardian. (g) Plan of care and all subsequent updates and changes. (h) Clinical and service notes, signed and dated by

**Interpretive Guideline**

In the sample, determine if HHA clinical records meet the criteria (5) (a) through (l): and (6).

This standard does not apply to patients receiving only home health aide, C.N.A., homemaker or companion services

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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 breakdown.

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**ST - H0362 - Patients with Alzheimer's Disease and Other**

**Title** Patients with Alzheimer's Disease and Other

**Statute or Rule** 400.4785, F.S.

**Type** Rule

**Regulation Definition**

400.4785 An agency licensed under this part which claims that it provides special care for persons who have Alzheimer's disease or other related disorders must disclose in its advertisements or in a separate document those services that distinguish the care as being especially applicable to, or suitable for, such persons. The agency must give a copy of all such advertisements or a copy of the document to each person who requests information about the agency and must maintain a copy of all such advertisements and documents in its records. The Agency for Health Care Administration shall examine all such advertisements and documents in the agency's records as part of the license renewal procedure.

**Interpretive Guideline**

Does the agency claim to offer specialized activities for Alzheimer's patients?  
If applicable, review advertisements in local papers/website/social media or ask for them during the entrance conference with the administrator.  
Review the agency's brochures.

**ST - H0363 - Medical Director**

**Title** Medical Director

**Statute or Rule** 400.474(6)(h-k)

**Type** Rule

**Regulation Definition**

(6) The agency may deny, revoke, or suspend the license of a home health agency and shall impose a fine of \$5,000 against a home health agency that:  
(h) Gives remuneration to a physician without a medical director contract being in effect. The contract must:  
1. Be in writing and signed by both parties;

**Interpretive Guideline**

Cite, if the following are found:  
a. More than one medical director;  
b. No contract but paying a physician or medical director;  
c. Has contract but it does not contain required content;  
d. Contract rate was increased during time period of the contract;  
e. Contract was not for at least one year;

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2. Provide for remuneration that is at fair market value for an hourly rate, which must be supported by invoices submitted by the medical director describing the work performed, the dates on which that work was performed, and the duration of that work; and

3. Be for a term of at least 1 year.

The hourly rate specified in the contract may not be increased during the term of the contract. The home health agency may not execute a subsequent contract with that physician which has an increased hourly rate and covers any portion of the term that was in the original contract.

(i) Gives remuneration to:

1. A physician, and the home health agency is in violation of paragraph (g) or paragraph (h);

2. A member of the physician ' s office staff; or

3. An immediate family member of the physician,

if the home health agency has received a patient referral in the preceding 12 months from that physician or physician ' s office staff.

(j) Fails to provide to the agency, upon request, copies of all contracts with a medical director which were executed within 5 years before the request.

(k) Demonstrates a pattern of billing the Medicaid program for services to Medicaid recipients which are medically unnecessary as determined by a final order. A pattern may be demonstrated by a showing of at least two such medically unnecessary services within one Medicaid program integrity audit period.

f. Contract was not at fair market value for an hourly rate;

g. Failure to provide copies of contracts to surveyor;

h. Invoices for medical director payment do not describe work performed, dates or duration.

The Home Care Unit is required to submit a recommendation for sanction to General Counsel ' s office for the required fine of \$5,000 and may include denial, revocation or suspension of the license.

**ST - H0365 - Billing for Services not Provided**

**Title** Billing for Services not Provided

**Statute or Rule** 400.474(4), F.S.

**Type** Rule



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**Regulation Definition**

The agency shall impose a fine of \$5,000 against a home health agency that demonstrates a pattern of billing any payor for services not provided. A pattern may be demonstrated by a showing of at least three billings for services not provided within a 12-month period. The fine must be imposed for each incident that is falsely billed. The agency may also:

- (a) Require payback of all funds;
- (b) Revoke the license; or
- (c) Issue a moratorium in accordance with s. 408.814.

**Interpretive Guideline**

This applies to billing any payor for services not provided.

Sample billing for services in records reviewed and for patients visited on survey.

If an HHA is found to have billed for services not provided, the Home Care Unit would submit a Recommendation for Sanction.

A pattern of at least 3 billings must be found in order to fine.

**ST - H0366 - Remuneration for Referrals**

**Title** Remuneration for Referrals

**Statute or Rule** 400.474(6)(e), F.S.

**Type** Rule

**Regulation Definition**

400.474(6) The agency may deny, revoke, or suspend the license of a home health agency and shall impose a fine of \$5,000 against a home health agency that:

- (e) Gives remuneration to a case manager, discharge planner, facility-based staff member, or third-party vendor who is involved in the discharge planning process of a facility licensed under chapter 395, chapter 429, or this chapter from whom the home health agency receives referrals.

**Interpretive Guideline**

This applies to the following types of facilities from whom the HHA receives referrals:

Facilities licensed under chapter 395: hospitals, ambulatory surgical centers, and mobile surgical facilities.

Chapter 400: skilled nursing facilities, HHAs, nurse registries, hospices, intermediate care facilities, prescribed pediatric extended care centers, transitional living facilities, and health care services pools.

Chapter 429: assisted living facilities, adult family care homes and adult day care centers.

Any payment or other benefit provided by a HHA to a case manager, discharge planner or facility-based staff member or 3rd party vendor from whom the HHAs receives referrals, violates this unless the HHA can provide information to the surveyor that it does not.

Upon the discovery of such a violation, the surveyor should document the remuneration with a focus on: to whom it was given, what was given, when it was given, how it was given and the number of times it was given. The surveyor should also document the referrals that the HHA received from the case manager, discharge planner, facility-based staff member, or third-party vendor who is involved in the discharge-planning process of a facility. The surveyor

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should then ask the HHA reason why it gave the remuneration to such persons. If the HHA takes the position that the remuneration is a discount, compensation, waiver of payment, or payment practice permitted by 42 U.S.C. s.1320a-7(b) or its regulations, including 42 C.F.R. s.1001.952, or 42 U.S.C. s. 1395nn or its regulations, (i.e., the payment or other benefit is permitted under federal law or regulation), the surveyor should document all information and obtain copies of any and all relevant documents supporting the HHA's position. The surveyor should return to the Field Office with the relevant documents and consult with the Field Office to determine whether an exception exists. If it is determined that the HHA is unable to demonstrate an exception to the remuneration prohibition, the Home Care Unit is required to submit a recommendation for sanction to General Counsel ' s office.

**ST - H0367 - Payment to Beneficiaries**

**Title** Payment to Beneficiaries

**Statute or Rule** 400.474(6)(g), F.S.

**Type** Rule

**Regulation Definition**

400.474(6) The agency may deny, revoke, or suspend the license of a home health agency and shall impose a fine of \$5,000 against a home health agency that:  
(g) Gives cash, or its equivalent, to a Medicare or Medicaid beneficiary.

**Interpretive Guideline**

Interview patients/review HHA records for cash, or its equivalent to the patient -- such as free services/products.

**ST - H0368 - Providing ALF, ADC, AFCH Staff or Services**

**Title** Providing ALF, ADC, AFCH Staff or Services

**Statute or Rule** 400.474(6)(b-d); 400.518(4) FS

**Type** Rule

**Regulation Definition**

400.474(6), F.S. The agency may deny, revoke, or suspend the license of a home health agency and shall impose a fine of \$5,000 against a home health agency that:  
(b) Provides services to residents in an assisted living facility for which the home health agency does not receive fair market

**Interpretive Guideline**

Check contracts the HHA has with ALFs for staffing, referrals and/or space.

Visit a HHA office or drop site in an ALF. Are HHA personnel providing services for specific patients in their rooms or do they staff the ALF and/or operate a resident drop-in office at the facility for blood-pressure, check symptoms, provide treatment for minor injury, etc.? Is this HHA the only HHA that sees its residents?

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value remuneration.

(c) Provides staffing to an assisted living facility for which the home health agency does not receive fair market value remuneration.

(d) Fails to provide the agency, upon request, with copies of all contracts with assisted living facilities which were executed within 5 years before the request.

If the HHA is renting space for an HHA office or drop site in such a facility, is the payment amount fair market? Since remuneration can be cash or in-kind (as defined in 400.462, F.S.). This could be free space or more or less than fair market rent.

400.518 Prohibited referrals to home health agencies.--

(4) The agency shall impose an administrative fine of \$15,000 if a home health agency provides 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. The proceeds of such fines shall be deposited into the Health Care Trust Fund .

**ST - H0370 - Physician Self-Referral**

**Title** Physician Self-Referral

**Statute or Rule** 400.518(1-3), F.S.

**Type** Rule

**Regulation Definition**

Prohibited referrals to home health agencies.-

(1) A physician licensed under chapter 458 or chapter 459 must comply with s. 456.053.

(2) A hospital or an ambulatory surgical center that has a financial interest in a home health agency is prohibited from requiring any physician on its staff to refer a patient to the home health agency.

(3)(a) A violation of this section is punishable by an administrative fine not to exceed \$15,000. The proceeds of such fines must be deposited into the Health Care Trust Fund.

(b) A physician who violates this section is subject to disciplinary action by the appropriate board under s.

458.331(2) or s. 459.015(2). A hospital or ambulatory surgical

**Interpretive Guideline**

If a physician that has an ownership in the home health agency and is making referrals to the home health agency, a Recommendation for Sanction should be submitted by the Home Care Unit to the General Counsel's office for the fine in s. 400.518(3)(a), F.S.

The Home Care should also refer the physician to the Board of Medicine in the Department of Health.

Information that a hospital or ambulatory surgical center is requiring referrals to its home health agency should be referred to the AHCA Complaint Administration Unit.

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center that violates this section is subject to s. 395.0185(2).

**ST - H0371 - Prohibited Referrals and Payments**

**Title** Prohibited Referrals and Payments

**Statute or Rule** 456.053(5) & (3)(o), F.S.; 817.505(1)

**Type** Rule

**Regulation Definition**

456.053, F.S.

(5) PROHIBITED REFERRALS AND CLAIMS FOR PAYMENT.-Except as provided in this section:

(a) A health care provider may not refer a patient for the provision of designated health services to an entity in which the health care provider is an investor or has an investment interest.

(b) A health care provider may not refer a patient for the provision of any other health care item or service to an entity in which the health care provider is an investor unless:

1. The provider ' s investment interest is in registered securities purchased on a national exchange or over-the-counter market and issued by a publicly held corporation:

a. Whose shares are traded on a national exchange or on the over-the-counter market; and

b. Whose total assets at the end of the corporation ' s most recent fiscal quarter exceeded \$50 million; or

2. With respect to an entity other than a publicly held corporation described in subparagraph 1., and a referring provider ' s investment interest in such entity, each of the following requirements are met:

a. No more than 50 percent of the value of the investment interests are held by investors who are in a position to make referrals to the entity.

b. The terms under which an investment interest is offered to an investor who is in a position to make referrals to the entity

**Interpretive Guideline**

Cite when the surveyor finds the HHA gets its referrals from a business it also owns (within the limits of the law quoted in the statute) or when the surveyor finds a HHA is making financial arrangements for referrals and correction should be required. In addition, a health care professional would be referred to the appropriate licensing board if this is found. Medicare and Medicaid HHAs would be referred by field offices to Program Integrity offices for Medicare and Medicaid. Information on violations of 817.505, F.S. should also be provided to the Attorney General's Office of Economic Crimes for their action.

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are no different from the terms offered to investors who are not in a position to make such referrals.

c. The terms under which an investment interest is offered to an investor who is in a position to make referrals to the entity are not related to the previous or expected volume of referrals from that investor to the entity.

d. There is no requirement that an investor make referrals or be in a position to make referrals to the entity as a condition for becoming or remaining an investor.

3. With respect to either such entity or publicly held corporation:

a. The entity or corporation does not loan funds to or guarantee a loan for an investor who is in a position to make referrals to the entity or corporation if the investor uses any part of such loan to obtain the investment interest.

b. The amount distributed to an investor representing a return on the investment interest is directly proportional to the amount of the capital investment, including the fair market value of any preoperational services rendered, invested in the entity or corporation by that investor.

4. Each board and, in the case of hospitals, the Agency for Health Care Administration, shall encourage the use by licensees of the declaratory statement procedure to determine the applicability of this section or any rule adopted pursuant to this section as it applies solely to the licensee. Boards shall submit to the Agency for Health Care Administration the name of any entity in which a provider investment interest has been approved pursuant to this section, and the Agency for Health Care Administration shall adopt rules providing for periodic quality assurance and utilization review of such entities.

(c) No claim for payment may be presented by an entity to any individual, third-party payor, or other entity for a service furnished pursuant to a referral prohibited under this section.

(d) If an entity collects any amount that was billed in violation of this section, the entity shall refund such amount on a timely

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basis to the payor or individual, whichever is applicable.

(e) Any person that presents or causes to be presented a bill or a claim for service that such person knows or should know is for a service for which payment may not be made under paragraph (c), or for which a refund has not been made under paragraph (d), shall be subject to a civil penalty of not more than \$15,000 for each such service to be imposed and collected by the appropriate board.

(f) Any health care provider or other entity that enters into an arrangement or scheme, such as a cross-referral arrangement, which the physician or entity knows or should know has a principal purpose of assuring referrals by the physician to a particular entity which, if the physician directly made referrals to such entity, would be in violation of this section, shall be subject to a civil penalty of not more than \$100,000 for each such circumvention arrangement or scheme to be imposed and collected by the appropriate board.

(g) A violation of this section by a health care provider shall constitute grounds for disciplinary action to be taken by the applicable board pursuant to s. 458.331(2), s. 459.015(2), s. 460.413(2), s. 461.013(2), s. 463.016(2), or s. 466.028(2).

Any hospital licensed under chapter 395 found in violation of this section shall be subject to the rules adopted by the Agency for Health Care Administration pursuant to s. 395.0185(2).

(h) Any hospital licensed under chapter 395 that discriminates against or otherwise penalizes a health care provider for compliance with this act.

(i) The provision of paragraph (a) shall not apply to referrals to the offices of radiation therapy centers managed by an entity or subsidiary or general partner thereof, which performed radiation therapy services at those same offices prior to April 1, 1991, and shall not apply also to referrals for radiation therapy to be performed at no more than one additional office of any entity qualifying for the foregoing exception which, prior to February 1, 1992, had a binding

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purchase contract on and a nonrefundable deposit paid for a linear accelerator to be used at the additional office. The physical site of the radiation treatment centers affected by this provision may be relocated as a result of the following factors: acts of God; fire; strike; accident; war; eminent domain actions by any governmental body; or refusal by the lessor to renew a lease. A relocation for the foregoing reasons is limited to relocation of an existing facility to a replacement location within the county of the existing facility upon written notification to the Office of Licensure and Certification.

(j) A health care provider who meets the requirements of paragraphs (b) and (i) must disclose his or her investment interest to his or her patients as provided in s. 456.052.

(3)(o) " Referral " means any referral of a patient by a health care provider for health care services, including, without limitation:

1. The forwarding of a patient by a health care provider to another health care provider or to an entity which provides or supplies designated health services or any other health care item or service; or
2. The request or establishment of a plan of care by a health care provider, which includes the provision of designated health services or other health care item or service.

817.505 Patient brokering prohibited; exceptions; penalties.--

(1) It is unlawful for any person, including any health care provider or health care facility, to:

- (a) Offer or pay any commission, bonus, rebate, kickback, or bribe, directly or indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, to induce the referral of patients or patronage to or from a health care provider or health care facility;
- (b) Solicit or receive any commission, bonus, rebate, kickback, or bribe, directly or indirectly, in cash or in kind, or

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engage in any split-fee arrangement, in any form whatsoever, in return for referring patients or patronage to or from a health care provider or health care facility;

(c) Solicit or receive any commission, bonus, rebate, kickback, or bribe, directly or indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, in return for the acceptance or acknowledgment of treatment from a health care provider or health care facility; or

(d) Aid, abet, advise, or otherwise participate in the conduct prohibited under paragraph (a), paragraph (b), or paragraph (c).

**ST - H0372 - Special Needs Registration**

**Title** Special Needs Registration

**Statute or Rule** 59A-8.027(13-14), FAC; 252.355(1)&(6)

**FS**

**Type** Rule

**Regulation Definition**

59A-8.027, FAC

(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.

252.355, F.S.

(1) In order to meet the special needs of persons who would need assistance during evacuations and sheltering because of

**Interpretive Guideline**

Ask the HHA administrator to explain what is done by staff to collect registration information. The HHA should have contacted the local Emergency Management Agency (EMA) in each county on its license to find out what information needs to be submitted.

Ask for evidence that:

- (1) the HHA has information on what each county EMA requires for registration and
- (2) the HHA is submitting registration information - unless the county does not allow outside persons to submit and requires direct contact with special needs persons. In these instances, the HHA should have a copy of the county's instructions for special needs registration that says only the patient can submit. The HHA will still be expected to inform patients who need assistance in evacuation of the special needs registration process. Their procedures would be included in their emergency management plan.

Has the HHA included special needs registration in the emergency management plan format?



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physical, mental, cognitive impairment, or sensory disabilities, each local emergency management agency in the state shall maintain a registry of persons with special needs located within the jurisdiction of the local agency. The registration shall identify those persons in need of assistance and plan for resource allocation to meet those identified needs. To assist the local emergency management agency in identifying such persons, HOME health agencies, hospices, nurse registries, HOME medical equipment providers, the Department of Children and Family Services, Department of health, Agency for health Care Administration, Department of Education, Agency for Persons with Disabilities, and Department of Elderly Affairs shall provide registration information to all of their special needs clients and to all persons with special needs who receive services. The registry shall be updated annually. The registration program shall give persons with special needs the option of preauthorizing emergency response personnel to enter their HOMEs during search and rescue operations if necessary to assure their safety and welfare following disasters.

(6) All appropriate agencies and community-based service providers, including HOME health care providers, hospices, nurse registries, and HOME medical equipment providers, shall assist emergency management agencies by collecting registration information for persons with special needs as part of program intake processes, establishing programs to increase the awareness of the registration process, and educating clients about the procedures that may be necessary for their safety during disasters. Clients of state or federally funded service programs with physical, mental, cognitive impairment, or sensory disabilities who need assistance in evacuating, or when in shelters, must register as persons with special needs.

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**ST - H0373 - Emergency Management Plan**

**Title** Emergency Management Plan

**Statute or Rule** 400.492 F.S.; 59A-8.027(1) FAC

**Type** Rule

**Regulation Definition**

400.492, F.S., Provision of services during an emergency.-Each home health agency shall prepare and maintain a comprehensive emergency management plan that is consistent with the standards adopted by national or state accreditation organizations and consistent with the local special needs plan. The plan shall be updated annually and shall provide for continuing home health services during an emergency that interrupts patient care or services in the patient 's home. The plan shall include the means by which the home health agency will continue to provide staff to perform the same type and quantity of services to their patients who evacuate to special needs shelters that were being provided to those patients prior to evacuation. The plan shall describe how the home health agency establishes and maintains an effective response to emergencies and disasters, including: notifying staff when emergency response measures are initiated; providing for communication between staff members, county health departments, and local emergency management agencies, including a backup system; identifying resources necessary to continue essential care or services or referrals to other organizations subject to written agreement; and prioritizing and contacting patients who need continued care or services.

59A-8.0027(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

**Interpretive Guideline**

Does the HHA have a written emergency management (EM) plan, if it is not exempt (400.497(8)(e), F.S)?

HHAs that already have plans in a previous format are not expected to re-write their plans on the revised plan format. It is not submitted for review again, even though updated. If the survey is for an initial applicant for licensure, the revised format dated March 2013 should have been used.

For existing HHAs, the plan should be updated with an inserted page or addendum for EM Plan form item II.D. 1 & 2 to include the means by which the HHA will continue to provide staff to perform the same type and quantity of services to their patients who evacuate to special needs shelters that were being provided to those patients prior to evacuation.

For initial applicants, the plan must include how the HHA will:

- (1) Notify staff (II C 1, 3&4)
- (2) Have a backup system for communication (II C 6)
- (3) Prioritize and contact patients who need continuing care (II C 5 and F 1 & 3)
- (4) Continue essential care, including care at shelters (II D 1,2 & E 3 & 4)

NOTE: SUBMITTING PLANS FOR REVIEW IS IN STANDARD H 376.

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Management Plan (CEMP), " AHCA Form 3110-1022, Revised March 2013, incorporated by reference (<http://www.flrules.org/Gateway/reference.asp?No=Ref-02767>). This document is available from the Agency for Health Care Administration at [http://ahca.myflorida.com/MCHQ/Emergency\\_Activities/index.shtml](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.

**ST - H0374 - Emergency Management - Patient Records**

**Title** Emergency Management - Patient Records

**Statute or Rule** 400.492(1), F.S.; 59A-8.027(8)&(12)&(16)

**Type** Rule

**Regulation Definition**

400.492(1), F.S., Each patient record for patients who are listed in the registry established pursuant to s. 252.355 shall include a description of how care or services will be continued in the event of an emergency or disaster. The home health agency shall discuss the emergency provisions with the patient and the patient ' s caregivers, including where and how the patient is to evacuate, procedures for notifying the home health agency in the event that the patient evacuates to a location other than the shelter identified in the patient record, and a list of medications and equipment which must either accompany the patient or will be needed by the patient in the event of an evacuation.

59A-8.027

(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.

**Interpretive Guideline**

Do patient records include:

- (1) whether the patient intends to evacuate or remain at home
- (2) if there are family or other caregivers who can take responsibility for services normally provided by HHA or if the HHA needs to continue services
- (3) if patient is listed or will be listed with the special needs registry -- if so, the list of medications & equipment should be included in the record
- (4) if patient lives in an assisted living facility (ALF) or adult family care home (AFCH), was the facility contacted to find out where they will evacuate to
- (5) if continuing services will be needed by the HHA, this should be noted in the record ( this includes ALF and AFCH patients)
- (6) If services cannot be continued, document why and the efforts that were made to continue services.

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(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.

**ST - H0375 - Emergency Management Prioritized List**

**Title** Emergency Management Prioritized List

**Statute or Rule** 400.492(2), F.S.; 59A-8.027 (14) FAC

**Type** Rule

**Regulation Definition**

400.492(2), F.S. Each home health agency shall maintain a current prioritized list of patients who need continued services during an emergency. The list shall indicate how services shall be continued in the event of an emergency or disaster for each patient and if the patient is to be transported to a special needs shelter, and shall indicate if the patient is receiving skilled

**Interpretive Guideline**

Does the agency maintain a current prioritized list of registered special needs patients?

Has the agency included section II.C, 7 in the Emergency Management plan format?

Ask to see the list and ask the administrator how the HHA keeps the list current.

Does the prioritized list include:

- (1) indication of how services will be continued
- (2) if patient is registered with the special needs registry & is to be transported to the special needs shelter

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nursing services and the patient's medication and equipment needs. The list shall be furnished to county health departments and to local emergency management agencies, upon request

- (3) if the patient is receiving skilled nursing
- (4) the patient's medication & equipment needs
- (5) ALF & AFCH patients who require nursing services

59A-8.027 (14) The prioritized list of patients maintained by the home health agency shall be kept current and shall include information as defined in s. 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.

**ST - H0376 - Emergency Management Plan Review**

**Title** Emergency Management Plan Review

**Statute or Rule** 400.497(8); 400.492(1); 59A-8.027(2-3)

**Type** Rule

**Regulation Definition**

400.497, F.S. Preparation of a comprehensive emergency management plan pursuant to s. 400.492.

(a) The Agency for Health Care Administration shall adopt rules establishing minimum criteria for the plan and plan updates, with the concurrence of the Department of Health and in consultation with the Division of Emergency Management.

(b) The rules must address the requirements in s. 400.492. In addition, the rules shall provide for the maintenance of patient-specific medication lists that can accompany patients who are transported from their homes.

(c) The plan 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

**Interpretive Guideline**

Has the HHA sent its emergency management plan to the reviewer?

Please note: some county health departments may not review the plan as no funding was appropriated for positions to review the plans.

If it has been over 90 days since the county health department was sent the plan electronically by the HHA then has a response been received? Ask to see the response and the HHA's response if the reviewer requested revisions to the plan.

Is the CEMP reviewed by the HHA and updated annually? Updated plans are not submitted for review again - they are only reviewed for approval one time when initially prepared.

Changes in telephone numbers or key staff coordinating the HHA's emergency response must be reported.

Check for annual plan reviews of the plan by the HHA and updating.

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stakeholders when necessary. The county health department shall complete its review to ensure that the plan is in accordance with the criteria in the Agency for Health Care Administration rules within 90 days after receipt of the plan and shall approve the plan or advise the home health agency of necessary revisions. If the home health agency fails to submit a plan or fails to submit the 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 home health agency 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.

(d) For any home health agency that operates in more than one county, the Department of Health shall review the plan, after consulting with state and local health and medical stakeholders when necessary. The department shall complete its review within 90 days after receipt of the plan and shall approve the plan or advise the home health agency of necessary revisions. The department shall make every effort to avoid imposing differing requirements on a home health agency that operates in more than one county as a result of differing or conflicting comprehensive plan requirements of the counties in which the home health agency operates.

(e) The requirements in this subsection do not apply to:

1. A facility that is certified under chapter 651 and has a licensed home health agency used exclusively by residents of the facility; or
2. A retirement community that consists of residential units for independent living and either a licensed nursing home or an assisted living facility, and has a licensed home health agency used exclusively by the residents of the retirement community, provided the comprehensive emergency management plan for

Has the HHA been notified by the county health department of the HHA's failure to submit a plan for review or provide additional information requested? If the plan or information was not provided, cite this and if not corrected, the Home Care Unit will do a Recommendation for Sanction for fine.

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the facility or retirement community provides for continuous care of all residents with special needs during an emergency.

59A-8.027(2), F.A.C. The plan, once completed, will be forwarded electronically for approval to the contact designated by the Department of Health.

400.492, F.S. .... The plan shall be updated annually ...

59A-8.027

(3), F.A.C. 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.

**ST - H0377 - Emergency Management Plan When CHOW**

**Title** Emergency Management Plan When CHOW

**Statute or Rule** 59A-8.027(5), F.A.C.

**Type** Rule

**Regulation Definition**

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

**Interpretive Guideline**

Was the EM plan reviewed and updated? Were substantive changes (phone numbers, new name of agency, new address, new personnel responsible for implementing plan, etc.) reported to the local county health department reviewing entity in each county listed on the license?

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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.

**ST - H0378 - Emergency Management Plan Activation**

**Title** Emergency Management Plan Activation

**Statute or Rule** 59A-8.027(6), F.A.C.; 400.492(3), FS

**Type** Rule

**Regulation Definition**

59A-8.027(6) In the event of an emergency the agency shall implement the agency's emergency management plan in accordance with s. 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 s. 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.

400.492(3), F.S. Home health agencies shall not be required to continue to provide care to patients in emergency situations that are beyond their 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. Home health agencies 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 the agency to reach its clients. Home health agencies shall

**Interpretive Guideline**

If there should be an emergency, surveyors can check to see if this standard was complied with in the next survey or if there is a complaint.

Was the plan implemented? Was staff informed? Was there an alternative means of communication if phone service was down?

Did HHA document attempts of staff to follow procedures in the plan, including attempting to provide the same level of care to patients who went to special needs shelters? If not cite the agency under H 379.

Here's the law referenced with 400.492(3), F.S., in the standard:

400.492(1), F.S. Each patient record for patients who are listed in the registry established pursuant to s. 252.355 shall include a description of how care or services will be continued in the event of an emergency or disaster. The home health agency shall discuss the emergency provisions with the patient and the patient's caregivers, including where and how the patient is to evacuate, procedures for notifying the home health agency in the event that the patient evacuates to a location other than the shelter identified in the patient record, and a list of medications and equipment which must either accompany the patient or will be needed by the patient in the event of an evacuation.



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demonstrate a good faith effort to comply with the requirements of this subsection by documenting attempts of staff to follow procedures outlined in the home health agency's comprehensive emergency management plan, and by the patient's record, which support a finding that the provision of continuing care has been attempted for those patients who have been identified as needing care by the home health agency and registered under s. 252.355, in the event of an emergency or disaster under subsection (1).

**ST - H0379 - Emergency Management Servicing Patients**

**Title** Emergency Management Servicing Patients

**Statute or Rule** 400.492, F.S.; 59A-8.027(8-12) FAC

**Type** Rule

**Regulation Definition**

400.492, F.S. .... the home health agency will continue to provide staff to perform the same type and quantity of services to their patients who evacuate to special needs shelters that were being provided to those patients prior to evacuation

59A-8.027 F.A.C.

(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

**Interpretive Guideline**

Has there been an eminent threat of a hurricane, flood or other emergency? If so, did the HHA contact ALF & AFCHs to confirm plans?

If so, did the HHA designate staff to continue services in emergencies, including for ALF & AFCH patients & including at special needs shelters as required in the standard?

If there was an emergency since the last survey and the HHA was not able to respond, or a complaint was received on the response of the HHA, then check special needs shelter patient files to see if the HHA documented their efforts to continue services to the patient. If there is no documentation then cite the HHA.

Has the agency included I.I.C.5 in the Emergency Management plan?

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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

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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.

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**ST - H0380 - Emergency Management List of Meds**

**Title** Emergency Management List of Meds

**Statute or Rule** 59A-8.027(17), F.A.C.

**Type** Rule

**Regulation Definition**

59A-8.027 F.A.C.

(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.

**Interpretive Guideline**

Has the agency included planning criteria section II.E, 1 & 2 in the EM planning document?

If you conduct a home visit to a patient who is registered as a special needs patient, does the patient have a list of specific medications, supplies and equipment needed to accompany the patient or required in an evacuation?

If the special needs patient only receives home health aide or C.N.A. services, the home health aide or C.N.A. may prepare the list of medications, supplies and equipment as required in this standard.