

**Agency for Health Care Administration**  
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**Aspen State Regulation Set: I 1.06 Homemaker Companion Services**

**ST - I0000 - INITIAL COMMENTS**

**Title** INITIAL COMMENTS

**Type** Memo Tag

**Regulation Definition**

**Interpretive Guideline**

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

**ST - I0002 - Registration Required**

**Title** Registration Required

**Type** Rule

400.509(1) FS

**Regulation Definition**

Any organization that provides companion services or homemaker services and does not provide a home health service to a person is exempt from licensure under this part. However, any organization that provides companion services or homemaker services must register with the agency. An organization under contract with the Agency for Persons with Disabilities which provides companion services only for persons with a developmental disability, as defined in s. 393.063, is exempt from registration.

**Interpretive Guideline**

If more than one person is working together as an organization or business providing homemaker or companion services, state law requires HCS registration.

Registration of individuals that work independently on their own is no longer required. The Florida Legislature removed the requirement for individuals to register -- if do not hire others to work with them.

Home health agencies and nurse registries that provide homemaker and companion service are not required to also have a HCS registration. Licensed home health agencies and nurse registries may provide these two services.

Note: Personal care is to be provided by home health aides and certified nursing assistants working for home health agencies and nurse registries per state law as shown in the standards below. Thus, personal care is considered a home health service. If personal care is being provided, the HCS needs to get licensed as a home health agency or nurse registry. See I 0005 below.

Legal Question: Can a Licensed Practical Nurse function outside of the scope of this registration?

Please refer to Tag 0006

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PENDING STATUTORY REVISION: 393.063 does not define 'companion services'. Please refer to 400.462(7).

**ST - I0003 - Services Provided**

**Title** Services Provided

**Type** Rule

400.462(7, 16 & 24); 59A-8.0095(12a-b)

**Regulation Definition**

400.462, F.S.

(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.

(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.

(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.

59A-8.0095

(12) Homemakers and Companions.

(a) The homemaker shall:

1. Maintain the home in an optimum state of cleanliness and safety depending upon the client's and the caregiver's resources;

**Interpretive Guideline**

If the HCS does not perform these services or performs services that do not meet the definition, this standard is not met and should be cited.

If personal care is being provided, this standard can be cited as not met along with I 0005 below.

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

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**ST - I0005 - Unlicensed HH Services Provision**

**Title** Unlicensed HH Services Provision

**Type** Rule

400.464 (4), F.S.

**Regulation Definition**

(4)(a) 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.

(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 or part II of chapter 408, 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

**Interpretive Guideline**

A homemaker and companion service (HCS) is prohibited by Florida law from providing any hands-on personal care under the registration issued by AHCA; Personal care is considered a home health service and businesses in Florida must have a home health agency or nurse registry license to provide such assistance to clients. HCS should not accept clients that need personal care. HCS can only provide housekeeping, chore, errands, cooking, and companionship -- that does not include any patient care.

Please refer to Florida Statue 400.476 Staffing requirements; notifications; limitations on staffing services

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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 unlicensed home health agency and who, after receiving notification from the agency, fails to cease operation and apply for a license under this part commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Each day of continued operation is a separate offense.

(f) Any home health agency that fails to cease operation after agency notification may be fined in accordance with s. 408.812.

**ST - I0006 - Unlicensed Nurse Registry**

**Title** Unlicensed Nurse Registry

**Type** Rule

400.506(5); 400.462(21); 59A-18.002,(18)

**Regulation Definition**

400.506  
(5)(a) In addition to the requirements of s. 408.812, any person who owns, operates, or maintains an unlicensed nurse registry and who, after receiving notification from the agency,

**Interpretive Guideline**

A homemaker and companion service (HCS) is prohibited by Florida law from providing any hands-on personal care under the registration issued by AHCA. Personal care is considered a home health service and businesses in Florida must have a home health agency or nurse registry license to provide such assistance to clients.

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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.

NOTE: When this tag is cited, the surveyor will contact the field office. Once the field office has been contacted they will contact the Unit for Unlicensed Activity.

(b) If a nurse registry fails to cease operation after agency notification, the agency may impose a fine pursuant to s. 408.812.

400.462, F.S.

(21) "Nurse registry" means any person that procures, offers, promises, or attempts to secure health-care-related contracts for registered nurses, licensed practical nurses, certified nursing assistants, home health aides, companions, or homemakers, who are compensated by fees as independent contractors, including, but not limited to, contracts for the provision of services to patients and contracts to provide private duty or staffing services to health care facilities licensed under chapter 395, this chapter, or chapter 429 or other business entities.

59A-18.002, FAC

(8) "Licensed Practical Nurse," as defined in Section 464.003(16), F.S., means a person who is currently licensed to practice nursing pursuant to Chapter 464, F.S.

**ST - I0010 - Registration Number in Ads**

**Title** Registration Number in Ads

**Type** Rule

400.509(5), F.S.

**Regulation Definition**

400.509, F.S.

**Interpretive Guideline**

Check advertisements for services to see that they have the registration number. If not, cite this standard as not met

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(5) A person that offers or advertises to the public a service for which registration is required must include in its advertisement the registration number issued by the Agency for Health Care Administration.

and notify the Home Care Unit to issue fine. (This fine is prepared by the Unit and no RFS is needed.).

**ST - I0011 - Employment History**

**Title** Employment History

**Type** Rule

400.509(4), F.S.

**Regulation Definition**

400.509, F.S.

(4) Each registrant must obtain the employment or contract history of persons who are employed by or under contract with the organization and who will have contact at any time with patients or clients in their homes by:

(a) Requiring such persons to submit an employment or contractual history to the registrant; and

(b) Verifying the employment or contractual history, unless through diligent efforts such verification is not possible. The agency shall prescribe by rule the minimum requirements for establishing that diligent efforts have been made.

There is no monetary liability on the part of, and no cause of action for damages arises against, a former employer of a prospective employee of or prospective independent contractor with a registrant who reasonably and in good faith communicates his or her honest opinions about the former employee's or contractor's job performance. This subsection does not affect the official immunity of an officer or employee of a public corporation.

**Interpretive Guideline**

Surveyor should expect to see a file for each person that works for the HCS that shows the employment history - who the person worked for, dates, type of work done. Efforts to verify the employment history, at least the most recent positions, should be documented.