

59A-8.0095 Personnel.

(1) Administrator.

(a) The administrator of the agency shall:

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

2. Designate, in writing a direct employee or an individual covered under a management company contract to manage the home health agency or an employee leasing contract that provides the agency with full control over all operational duties and responsibilities to serve as an on-site alternate administrator during absences of the administrator. This person will be available during designated business hours, when the administrator is not available. Available during designated business hours means being readily available on the premises or by telecommunications. During the absence of the administrator, the ~~on-site~~ alternate administrator will have the responsibility and authority for the daily operation of the agency. The alternate administrator must meet the criteria as defined qualifications as stated in Sections Section 400.462(1) and 400.476(1) F.S.

~~(b) If an agency changes administrator or alternate administrator, the agency shall notify the AHCA Home Care Unit office in Tallahassee as required in subsection 59A-35.110(1), F.A.C., by submitting the application forms referenced in subsection 59A-8.003(1), F.A.C., and include evidence of a level 2 background screening, pursuant to Section 408.809, F.S. and Rule 59A-35.090, F.A.C. Notification shall consist of submission of the person's name and a statement that the person meets the qualifications in sections 400.476(1) and 400.462(1), F.S. Send the notification by email, fax or mail to HQAHOMEHEALTH@ahca.myflorida.com, fax (850)922-5374, or mail to AHCA Home Care Unit, 2727 Mahan Drive, Mail Stop #34, Tallahassee, Florida 32308. The administrator also must submit level 2 screening, pursuant to section 408.809, F.S., and rule 59A-35.090, F.A.C. or inform the Home Care Unit that level 2 screening was previously submitted.~~

(2) Director of Nursing.

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

1. Meet the criteria as defined in Sections 400.462(10) and 400.476(2), F.S.;

2. through 4. no change

(b) no change.

(c) The director of nursing shall:

1. through 2. no change

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; and

5. Establish and adopt policies and procedures for the delegation process of nursing tasks and activities as specified in Chapter 64B9-14, F.A.C.

(d) through (f) no change

(g) If the director of nursing serves as the director of nursing for more than two licensed home health agencies, then the director of nursing shall designate, in writing, an alternate director of nursing to serve during the director of nursing's absence. This person will be available during designated business hours, when the director of nursing is not available. Available during designated business hours means being readily available on the premises or by telecommunications. The alternate director of nursing must meet the criteria as defined in Sections 400.462(10) and 400.476(2), F.S.

(h) If an agency changes the director of nursing or alternate director of nursing, the agency shall notify AHCA as required in subsection 400.476(2)(b), F.S. by submitting the application forms referenced and in accordance with subsection 59A-8.003(1), F.A.C. and including evidence of level 2 background screening, pursuant to Section 408.809, F.S. and Rule 59A-35.090, F.A.C.

(i) An agency that does not provide skilled care is not required to have a director of nursing.

(3) Registered Nurse.

(a) A registered nurse shall be currently licensed in the state, pursuant to chapter 464, F.S., and:

1. Be the case manager in all cases involving nursing or both nursing and therapy care;

2. Be responsible for the clinical record for each patient receiving nursing care; ~~and,~~

3. Assure that progress reports are made to the physician, physicians assistant or advanced practice registered nurse for patients receiving nursing services when the patient's condition changes or there are deviations from the plan of care; and

4. Provide nursing services within the scope of practice authorized by the license issued by the State of Florida for a registered nurse.

(b) A registered nurse may assign selected portions of patient care to licensed practical nurses, certified nursing assistants and

home health aides but always retains the full responsibility for the care ~~provided given~~ and for making supervisory visits to the patient's home.

(c) An RN may delegate tasks to a home health aide or a certified nursing assistant (CNA) in accordance with Section 464.0156, F.S., Chapter 64B9-14 and Rule 59A-8.0216, F.A.C., provided the home health agency is licensed to provide skilled care.

(d) An RN shall not delegate a task to a home health aide or CNA if the home health agency is not licensed to provide skilled care.

(e) A home health agency that does not provide skilled care must have an RN to provide supervisory visits in accordance with Section 400.487(3), F.S., and must obtain the written consent of the patient, the patient's guardian or legal representative to send an RN into the home to conduct supervisory visits.

(4) Licensed Practical Nurse.

(a) A licensed practical nurse (LPN) shall be currently licensed to practice in the state, pursuant to chapter 464, F.S., and provide nursing care assigned by and under the direction of an RN a registered nurse who provides on-site supervision as needed, based upon the severity of patients medical condition and the LPN 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 RN registered nurse.

(b) An LPN A licensed practical nurse shall:

1. through 3. no change

4. Perform other duties assigned by the RN registered nurse.

(5) Home Health Aide and Certified Nursing Assistant.

(a) A home health aide or a certified nursing assistant (CNA) shall provide personal care services or other services assigned by and under the supervision of an RN a registered nurse. Supervision of the home health aide and CNA by an RN in the home will be in accordance with section 400.487(3), F.S. When only physical, speech, or occupational therapy is furnished, in addition to home health aide or CNA services, supervision can be supplied by a licensed therapist directly employed by the home health agency or by an independently contracted employee.

(b) Home health aides and CNAs may perform tasks delegated by and under the direction of an RN. The RN shall provide on-site supervision as needed, based upon the severity of patient's medical condition and the home health aide's or CNA's training and experience. Supervisory visits shall be documented in patient files. Provision shall be made in the home health agency's policies and procedures for annual evaluation of the home health aides' and CNAs' performance of duties by the RN.

(c) A home health aide or CNA shall:

1. Prepare and record clinical notes for the clinical record;

2. Report any changes in the patient's condition to the delegating RN with the reports documented in the clinical record;

3. Provide care to the patient including the administration of treatments and medications delegated by the RN; and,

4. Perform other duties assigned by the RN.

(d) When only physical, speech, or occupational therapy is provided in addition to home health aide or CNA services, supervision can be supplied by a licensed therapist directly employed by the home health agency or by an independently contracted employee instead of an RN.

(e) Certified Nursing Assistant (CNA) Qualifications.

1. Prior to providing services, the home health agency shall have documentation of the CNA's current State of Florida certification on file.

2. A CNA that is currently certified 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 certificate as a nursing assistant from that state.

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

~~(c) For every certified nursing assistant the home health agency shall have on file the person's State of Florida certification. A copy of the screen of the Florida Department of Health 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.~~

~~(f)(d) Home Health Aide Qualifications. Prior to providing services For every home health aide, a home health agency shall have on file documentation of the home health aide's 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 (k) (j), pursuant to section 400.497(1), F.S.:

1. through 14. no change

~~15. Assistance with self administered medication. Home health aides and CNAs assisting with self administered medication, pursuant to Section 400.488, F.S., must receive a minimum of 2 hours of training (which can be part of the 40 hour home health training) prior to 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.~~

~~15.16. Other topics pertinent to home health aide services.~~

~~(g) A home health aide seeking employment with a Medicare or Medicaid certified home health agency may be required to provide evidence of additional training incorporated within the Medicare Conditions for Participation, 42 C.F.R., Part 484, and available at <https://ecfr.io/Title-42/Part-484>.~~

~~(h) If the home health aide completes the training through a home health agency, and wishes to be employed at another agency, the individual must present to the second home health agency documentation of successful completion of training as listed in subparagraphs 59A-8.0095(5)(f)1. through 15., F.A.C.~~

~~(i) Home Health Aide Qualification through Vocational School or Nonpublic Post-Secondary Educational Institution.~~

~~1. 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.~~

~~2. If a home health aide successfully completes training through a nonpublic post-secondary educational institution approved by the Florida Department of Education, Commission for Independent Education, the individual must present to a home health agency a diploma or certificate issued by the nonpublic post-secondary educational institution.~~

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

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

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

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

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

~~(j) Home Health Aide Qualification through a Licensed Home Health Agency. A licensed home health agency may choose to administer the Home Health Aide Competency Test, form number AHCA 3110-1007, February, 2001, incorporated by reference, in lieu of the forty hours of training required in paragraph 59A-8.0095(5)(d), F.A.C. This test is designed for home health agencies to~~

determine competency of potential employees. Home health agencies may obtain the form by sending a request to HQAHOMEHEALTH@ahca.myflorida.com.

1. An individual may complete home health aide training through a home health agency licensed under Chapter 400, Part III, F.S. for the purpose of employment with the agency. 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. A home health agency that teaches the home health aide course to its employees pursuant to section 400.497(1), F.S., but is not approved as a nonpublic post-secondary educational institution by the Florida Department of Education, Commission for Independent Education, must issue the following documentation to individuals at the time of successful completion of the training course: 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.

a. The documentation must include the following: the title "Home Health Aide Documentation;" the name, address, phone number, and license number of the home health agency; the student's name, address, phone number, and social security number; total number of clock hours completed in the training; the number of clock hours for each unit or topic of training; signature of the person who directed the training; and the date the training was completed. It must be stated on the documentation that section 400.497(1), F.S., permits the home health agency conducting this training to provide such documentation.

b. Home health aide training must be performed by or under the general supervision of an RN who possesses a minimum of two years nursing experience one of which must have been in the provision of home health care.

3. A home health agency that teaches the home health aide course, but is not an approved nonpublic post-secondary educational institution, 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 it is offering "training for home health aides." The agency can indicate that it is hiring home health aides and will train. When a home health aide completes the competency test through the employing agency and wishes to be employed at another agency, the home health agency shall furnish documentation of successful passage of the test to the requesting agency pursuant to section 400.497(1), F.S. Documentation of successful passage may be provided in a format established by the home health agency, except as prohibited in 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.

(k) Qualification by the Home Health Aide Competency Test. A licensed home health agency may choose to administer the Home Health Aide Competency Test, AHCA Form 3110-1007, November 2021, incorporated by reference, in lieu of the forty hours of training required in paragraph 59A-8.0095(5)(f), 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 submitting a request to HQAHOMEHEALTH@ahca.myflorida.com. 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.

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, AHCA Form 3110-1007, November 2021, 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 Rule 59A-8.0097, 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 an RN or an LPN under the supervision of an RN. The staff person, RN, or LPN may also be responsible for grading the written test.

3. When a home health aide completes the competency test through the employing agency and wishes to be employed at another agency, the home health agency shall furnish documentation of successful passage of the test to the requesting agency pursuant to section 400.497(1), F.S. Documentation of successful passage may be provided in a format established by the home health agency, except as prohibited in paragraph 59A-8.0095(5)(j), 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, shall 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.

(l) Home Health Aide Qualification from Out-of-State. Home health aides who are licensed, certified or trained in another state must provide documentation of course completion, such as transcripts or a certificate that includes the course curriculum, to the employing home health agency as evidence of the training in section (5)(f) above. Responsibilities of the home health aide and CNA shall include:

(m) 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. RNs or LPNs who can show proof they are licensed in another state or in Florida, can work as a home health aide in Florida.

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

1. through 2. no change
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. Applying and removing anti-embolism stockings and hosiery prescribed for therapeutic treatment of the legs.

~~c.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.

(VI) Assisting with the placement and removal of colostomy bags, excluding the removal of the flange or manipulation of the stoma's site.

~~d.e.~~ Assisting with the use of devices for aid to daily living, such as a wheelchair or walker;

~~e.d.~~ Assisting with prescribed range of motion exercises;

~~f.e.~~ Assisting with prescribed ice cap or collar;

~~g.f.~~ ~~Performing~~ ~~Doing~~ simple urine tests for sugar, acetone or albumin;

~~h.~~ Assisting with the use of a glucometer to perform blood glucose testing;

~~i.g.~~ Measuring and preparing special diets;

~~j.h.~~ Measuring intake and output of fluids, and,

~~k.i.~~ Measuring vital signs including temperature, pulse, respiration or blood pressure.

l. Assisting with oxygen nasal cannulas and continuous positive airway pressure (CPAP) devices, excluding the titration of the prescribed oxygen levels.

4. through 6. no change

~~(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.~~

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

(o) Assistance with self-administration of medication.

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

- a. Prepare necessary items such as juice, water, cups, or spoons to assist the patient in the self-administration of medication.
- b. Open and close the medication container or tear the foil of prepackaged medications.
- c. Assist the patient 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.
- d. Assist the patient by placing unused doses of solid medication back into the medication container.
- e. For nebulizer treatments, assist the patient with the use of the nebulizer device as described in section 400.488(3)(g), F.S.
- f. Assist patients with insulin syringes prefilled by the pharmacy or insulin pens prefilled by the manufacturer in accordance with section 400.488(3)(a), F.S.
- g. Apply topical medications to skin stable surface wounds, which includes providing routine preventative skin care or applying transdermal patches on unbroken skin only.

(I) In cases where a home health aide or a CNA will apply topical medications to skin stable surface wounds, an assessment of the wound shall be conducted by an RN prior to the home health aide or a CNA assisting the patient.

(II) The wound assessment shall include the anatomic location, degree of skin and tissue damage, type of tissue in the wound if applicable, and wound size.

(III) An RN shall ensure that the home health aide or CNA applies topical medications, provides preventative skin care, or applies transdermal patches in accordance with their training and competency.

2. 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., an assessment of the medications for which assistance is to be provided shall be conducted by a licensed health care professional to ensure the home health aide or a CNA provides assistance in accordance with their training and with the medication prescription.

3. 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 a home health aide or a CNA. The patient, or the patient's caregiver, must give written consent for this arrangement, pursuant to section 400.488(2), F.S.

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

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

(p) Responsibilities of the home health aide and CNA may include certain tasks as delegated by an RN in accordance with sections 400.489, 400.490, 464.0156 and 464.2035, F.S., provided the following criteria are met:

1. The home health agency is licensed to provide skilled care;
2. The home health aide or CNA has met the training and validation requirements set forth in Rule 59A-8.0097, F.A.C.;
3. The RN delegating the task determines that the CNA or the home health aide is competent to perform the task;
4. The task meets criteria in paragraph (3)(c) of this rule; and,

5. A home health aide or CNA should only accept a delegation that the person knows is within his or her skill set or knowledge.

(q) Responsibilities of the home health aide and CNA shall not include:

1. The performance of any therapeutic service that requires licensure as a health care professional;

2. Changing sterile dressings;

3. Irrigating body cavities such as giving an enema;

4. Performing irrigation of any wounds (such as vascular ulcers, diabetic ulcers, pressure ulcers, surgical wounds) or apply agents used in the debridement of necrotic tissues in wounds of any type;

5. Performing a gastric irrigation or enteral feeding;

6. Catheterizing a patient;

7. Administering any controlled substance listed in Schedule II, Schedule III, or Schedule IV of s. 893.03 or 21 U.S.C. s. 812.;

8. Applying heat by any method;

9. Caring for a tracheotomy tube;

10. Providing any personal health service which has not been included in the plan of care; or

11. Providing assistance with the contents of a pill organizer.

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

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

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

(6) through (12) no change

Rulemaking Authority 400.488, 400.497, 400.489, 464.0156, 464.2035 FS. Law Implemented 400.476, 400.487, 400.488, 400.497, 400.489, 400.490, 464.0156, 464.2035, FS. History—New 1-20-97, Amended 1-17-00, 7-18-01, 9-22-05, 8-15-06, 7-11-13, _____.