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

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

(3) “Assistance with activities of daily living” means a certified nursing assistant or a home health aide provides to the patient individual assistance with activities of daily living, including the following:
   (a) Ambulation. Providing physical support to enable the patient to move about within or outside of the patient’s place of residence. Physical support includes holding the patient’s hand, elbow, under the arm, or holding on to a support belt worn by the patient to assist in providing stability or direction while the patient ambulates.
   (b) Bathing. Helping the patient in and out of the bathtub or shower being available while the patient is bathing. Can also include washing and drying the patient.
   (c) Dressing. Helping patients, who require assistance in dressing themselves, put on and remove clothing.
   (d) Eating. Helping with feeding patients who require assistance in feeding themselves.
   (e) Personal hygiene. Helping the patient with shaving. Assisting with oral, hair, skin and nail care.
   (f) Toileting. Reminding the patient about using the toilet, assisting him to the bathroom, helping to undress, positioning on the commode, and helping with related personal hygiene, including assistance with changing of an adult brief. Also includes assisting with positioning the patient on the bedpan, and helping with related personal hygiene.
   (g) Assistance with physical transfer. Providing verbal and physical cueing, physical assistance, or both while the patient moves from one position to another, for example between the following: a bed, chair, wheelchair, commode, bathtub or shower, or a standing position. Transfer can also include use of a mechanical lift, if a home health aide is trained in its use.
   (h) Assistance with self-administered medication, as defined in subsection 59A-8.0095(5), F.A.C.

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

(5) “Case management” means the initial assessment of the patient and caregiver for appropriateness of and acceptance for home health services; establishment and periodic review of a plan of care; implementation of medical treatment when ordered; referral, follow-up, provision of, evaluation of and supervision of care; coordination of services given by other health care providers; and documentation of all activities and findings.

(6) “DCF” means the Department of Children and Family Services.

(7) “Dietetics and nutrition practice” means assessing nutrition needs and status using appropriate data; recommending dietary regimens, nutrition support, and nutrient intake; improving the patient’s health status through nutrition counseling and education.

(8) “Dietitian/Nutritionist” means a person licensed to engage in dietetics and nutrition practice pursuant to Chapter 468, F.S.

(9) “Drop-off site” means any location in any county within the geographic service area of the main office, pursuant to subsection 59A-8.003(9), F.A.C.

(10) “Emergency Management Plan” means a comprehensive plan developed by the home health agency describing how the agency will prepare for and respond in an emergency, pursuant to Rule 59A-8.027, F.A.C.

(11) “Employee leasing company” means a company licensed and regulated under Chapter 468, Part XI, F.S. A leasing company handles the payroll and taxes on leased employees. While an employee leasing company pays the withholding taxes, the employee is still considered a direct employee, as defined in Section 468.534, F.S., of the home health agency.

(12) “FBI” means the Federal Bureau of Investigation.

(13) “FDLE” means the Florida Department of Law Enforcement.

(14) “Financial instability” means the home health agency cannot meet its financial obligation. Evidence such as the issuance of bad checks, or an accumulation of delinquent bills shall constitute prima facie evidence that the ownership of the home health agency lacks the financial ability to operate. Evidence also includes the Medicare or
Medicaid program’s indications or determination of financial instability or fraudulent handling of government funds by the home health agency.

(12) “Full-time equivalent” means when an employee works between 37 to 40 hours per week.

(13) “Geographic service area” means one or more counties within a health service planning district defined in Section 408.032(5), F.S., as specified on the license, in which the home health agency may send its personnel to provide home health services to patients in their places of residence.

(14) “Home infusion therapy services” means teaching, assessment, evaluation and clinical services related to the administration of intravenous substances provided by a professional licensed under Chapter 464, 458 or 459, F.S.

(15) “Licensed nurse,” as defined in Sections 464.003(4) and 464.003(5), F.S., means a registered nurse licensed to practice professional nursing or a licensed practical nurse licensed to practice nursing under the direction of a physician or registered nurse pursuant to Chapter 464, F.S.

(16) “Main office” means the primary office established in the county which houses all components of the home health agency including the administration, fiscal management, service provision and supplies.

(17) “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.

(18) “Nutrition assessment” means the evaluation of the nutrition needs of the patient using appropriate data to determine nutrient needs or status and make nutrition recommendations for the patient.

(19) “Nutrition counseling” means advising and assisting the patient on appropriate nutrition intake by integrating information from the nutrition assessment.

(20) “Occupational therapist” means a person licensed to practice occupational therapy pursuant to Chapter 468, F.S.

(21) “Occupational therapy assistant” means a person licensed to assist in the practice of occupational therapy pursuant to Chapter 468, F.S.

(22) “Patient” means an individual who receives home health services in one’s place of residence.

(23) “Plan of Care” means a coordinated plan, which includes the treatment orders, prepared by the case manager in collaboration with each professional discipline providing service to the patient and caregiver.

(24) “Physical therapist” means a person licensed to practice physical therapy pursuant to Chapter 486, F.S.

(25) “Physical therapy assistant” means a person licensed to assist in the practice of physical therapy pursuant to Chapter 486, F.S.

(26) “Physician” means a doctor of medicine, osteopathy, podiatry, or chiropractic legally authorized to practice in the state pursuant to Chapter 458, 459, 460 or 461, F.S. Physicians working in Veterans Administration hospitals and clinics are exempt from state licensure according to Chapter 458, F.S.

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

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

(29) “Satellite office” means a related office established in the same geographic service area as the main office, pursuant to subsection 59A-8.003(7), F.A.C.

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

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

(32) “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.

(33) “Speech pathologist” means a person licensed to practice speech pathology or audiology pursuant to Chapter 468, F.S.
“(34) (38) “Treatment orders” means written orders signed by a physician, physician assistant, or advanced registered nurse practitioner, acting within his or her respective scope of practice, which authorizes the provision of care or treatment to a patient in his place of residence by licensed Nurses, Physical Therapists, Occupational Therapists, Speech Therapists, or Dietitians/Nutritionists.

Rulemaking Authority 400.497 FS. Law Implemented 400.462, 400.487 FS. History–New 4-19-76, Formerly 10D-68.02, Amended 4-30-86, 8-10-88, 5-30-90, 5-27-92, Formerly 10D-68.002, Amended 4-27-93, 10-27-94, 1-17-00, 7-18-01, 9-22-05, 8-15-06, 3-29-07, 7-11-13, 7-27-16

59A-8.003 Licensure Requirements.

(1) The issuance of a home health agency license shall be based upon compliance with Chapters 400, Part III, and 408, Part II, F.S., and Rule Chapters 59A-8 and 59A-35, F.A.C., as evidenced by a signed, complete and accurate Health Care Licensing Application, Home Health Agency, AHCA Form 3110-1011, March 2016, incorporated by reference and available at http://www.flrules.org/Gateway/reference.asp?No=Ref-07060, and an inspection as required in Sections 400.471(2) and 408.806(7), F.S. An application for initial, change of ownership, or renewal licensure, or for the addition of skilled services by a home health agency that is currently licensed to provide services other than skilled services, shall be submitted on the Health Care Licensing Application, Home Health Agency, AHCA Form 3110-1011, April 2019, incorporated by reference and available at http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX, and accompanied by the Health Care Licensing Application Addendum referenced in subsection 59A-35.060(1), F.A.C. Applicants for renewal of a home health agency license or for a change during the licensure period may submit the Health Care Licensing Online Application, Home Health Agency, AHCA Form 3110-1011OL, April 2019 March 2016, incorporated by reference and available at http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX. The application forms are available online at http://www/ahca.myflorida.com/HQAlicensureforms or, for online renewal or change during the licensure period submissions, at: http://apps.ahca.myflorida.com/SingleSignOnPortal.

(2) An application for renewal of the current license must be submitted to AHCA at least 60 days prior to the date of expiration of the license, pursuant to Section 408.806, F.S. It is the responsibility of the home health agency to submit an application within the specified time frames whether or not they receive separate notification from AHCA of the impending expiration of the license.

(2) (3) Surveys of Home Health Agencies:

(a) Home health agencies will be surveyed by AHCA or an accrediting organization as defined in Rule 59A-8.002, F.A.C., pursuant to subsection 400.471(2) and Sections 408.806 and 408.811, F.S. Home health agencies will be surveyed prior to initial licensure, and at least every 36.9 months on an unannounced basis thereafter. Follow up surveys may be conducted to verify correction of deficiencies at any time on an unannounced basis.

(b) It is the responsibility of the home health agency to request exemption from state licensure surveys pursuant to Section 400.471(2), F.S., by submitting documentation of accreditation by an approved accrediting organization and the most recent accreditation survey report from the accrediting organization to the AHCA Laboratory and In-Home Services Home Care Unit.

(c) Home health agencies that complete paragraph (a), will not be subject to licensure surveys by AHCA except under the following circumstances:

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

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

3. The home health agency that provides only non-skilled services and is not Medicare or Medicaid certified is no longer required to be accredited as of July 1, 2014 pursuant to Section 400.471(2)(h), F.S. If the home health agency elects to give up its accreditation, the home health agency will inform AHCA by providing a copy of the letter it sent to its accrediting organization that shows the accreditation termination date.

(3) (4) AHCA will conduct investigations of complaints regarding licensure violations as required in Section 408.811, F.S.

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

(4) (4a) An application for a change of ownership shall be made on the forms prescribed by AHCA, as referenced in subsection (1) of this rule.

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

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

(c) AHCA will accept the most recent successful licensure inspection conducted no more than 36.9 months prior to the effective date of the change of ownership as satisfaction of the inspection requirement in Section 408.806(7), F.S. related to an application associated with a change in ownership of a licensed home health agency. Acceptance of the inspection does not alter the survey timeframes established in paragraph (3)(a).

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

(5) (5a) A licensed home health agency may operate a satellite office. A satellite office must be located in the same geographic service area as the agency’s main office and share administration, fiscal management, supervision, and service provision with the main office; it is not separately licensed. Supplies and records can be stored at a satellite office and phone business can be conducted the same as in the main office. The administrator at the main office is responsible for the staffing, patients, and operation of any satellite office. Signs and advertisements can notify the public of the satellite office location. If the agency wants to open an office outside of the geographic service area where the main office is located, the office must be separately licensed.

(6) (6a) A home health agency that operates a satellite office must:

(a) Ensure coverage of the professional staff which takes into account the projected number of clients to be served at the satellite office;

(b) Coordinate care and services by staff;

(c) Ensure supervision of the staff and provision of services in the event of staff absenteeism;

(d) Maintain a system of communication and integration of services between the main office and the satellite office;

(e) Provide access to patient records at the satellite office;

(f) Monitor the daily activities (clinical and administrative) and the management of services, as well as personnel and administrative issues at the satellite office;

(g) Ensure periodic onsite visits to each satellite office by the home health agency’s administrator;

(h) Make the satellite office’s hours of operation available to the public if different than the hours of operation maintained by the main office.

(7) (7a) A licensed home health agency may operate a drop-off site in any county within the geographic service area specified on the license. A drop-off site may be used for pick-up or drop-off of supplies or records, for agency staff to use to complete paperwork or to communicate with the main office, existing or prospective agency staff, or the agency’s existing patients or clients. Prospective patients or clients cannot be contacted and billing cannot be done from this location. The drop-off site is not a home health agency office, but merely a work station for direct care staff in large areas where the distance is too great for staff to drive back frequently to the home health agency office. Training of home health agency staff can be done at a drop-off site. A drop-off site shall not require a license. No other business shall be conducted at these locations, including housing of records. The agency name cannot appear at the location, unless required by law or by the rental contract, nor can the location appear on agency letterhead or in advertising.

(8) (8a) If a change of address is to occur, or if a home health agency intends to change the counties served within the geographic service area, or open or close a satellite office or drop-off site, the home health agency must complete
and submit the Health Care Licensing Application, Home Health Agency, AHCA Form 3110-1011, April 2019 or the Health Care Licensing Online Application, Home Health Agency, AHCA Form 3110-1011OL, April 2019, incorporated by reference in subsection (1) above, within the timeframe prescribed in paragraph 59A-35.040(2)(b), F.A.C. For an address change of the main office or satellite office, the home health agency must submit to the AHCA Home Care Unit evidence that the location is zoned for a home health agency business for the new address or satellite office and evidence of legal right to occupy the property in accordance with Section 408.810(6), F.S. To add or delete a drop-off site, the home health agency must complete and submit the Health Care Licensing Application, Home Health Agency, AHCA Form 3110-1011, March 2016, incorporated by reference in subsection (1) above.

(9) A home health agency has the following responsibility in terms of hours of operation:
(a) The home health agency administrator and director of nursing, or their alternates, must be available to the public for any eight consecutive hours between 7:00 a.m. and 6:00 p.m., Monday through Friday of each week, excluding legal and religious holidays. Available to the public means being readily available on the premises or by telecommunications.
(b) When the administrator and the director of nursing are not on the premises during designated business hours, a staff person must be available to answer the phone and the door and must be able to contact the administrator and the director of nursing by telecommunications. This individual can be a clerical staff person.
(c) If an AHCA surveyor arrives on the premises to conduct an unannounced survey and the administrator, the director of nursing, or a person authorized to give access to patient records, are not available on the premises they, or the designated alternate, must be available on the premises within an hour of the arrival of the surveyor. A list of current patients must be provided to the surveyor within two hours of arrival if requested.
(d) The home health agency shall have written policies and procedures governing 24 hour availability to licensed professional nursing staff by active patients of the home health agency receiving skilled care. These procedures shall describe an on-call system whereby designated nursing staff will be available to directly communicate with the patient. A home health agency that does not provide skilled services shall have written policies and procedures which shall address the availability of a registered nurse supervisor during hours of patient service.
(e) Failure to be available or to respond during a survey or inspection will be grounds for denial or revocation of the agency license in accordance with Section 408.806(7)(d), F.S.

(10) Upon revocation, suspension, voluntary or involuntary termination of a license, the home health agency shall return its license to AHCA. If the provider voluntarily chooses to terminate the license, the provider must notify AHCA, as required in paragraph 408.810(4)(a), F.S. This includes submitting a letter to the AHCA Laboratory and In-Home Services Home Care Unit, 2727 Mahan Drive, Mail Stop #32 #34, Tallahassee, Florida 32308, officially declaring the closure date of the home health agency.

Rulemaking Authority 400.497, 408.819 FS. Law Implemented 400.464, 400.471, 400.474, 400.484, 400.497, 408.806, 408.807, 408.810 FS. History–New 4-19-76, Formerly 10D-68.03, Amended 4-30-86, 8-10-88, 5-30-90, 6-12-91, Formerly 10D-68.003, Amended 4-27-93, 10-27-94, 1-30-97, 1-17-00, 7-18-01, 9-22-05, 8-15-06, 3-29-07, 7-11-13, 6-16-15, 7-27-16.