

1 himself or herself if he or she were physically capable is
2 exempt from licensure under this part. However, any
3 organization that provides personal care services must
4 register with the agency.

5 (2) Registration consists of annually filing with the
6 agency, under oath, on forms provided by it, the following
7 information:

8 (a) If the registrant is a firm or partnership, the
9 name, address, date of birth, and social security number of
10 every member.

11 (b) If the registrant is a corporation or association,
12 its name and address; the name, address, date of birth, and
13 social security number of each of its directors and officers;
14 and the name and address of each person having at least a 5
15 percent interest in the corporation or association.

16 (c) The name, address, date of birth, and social
17 security number of each person employed by or under contract
18 with the organization.

19 (3) The agency shall charge a registration fee of \$25
20 to be submitted with the information required under subsection
21 (2).

22 (4) Each applicant for registration must comply with
23 the following requirements:

24 (a) Upon receipt of a completed, signed, and dated
25 application, the agency shall require background screening, in
26 accordance with the level 1 standards for screening set forth
27 in chapter 435, of every individual who will have contact with
28 the client. The agency shall require background screening of
29 the managing employee or other similarly titled individual who
30 is responsible for the operation of the entity, and of the
31 financial officer or other similarly titled individual who is

1 responsible for the financial operation of the entity,
2 including billings for client services in accordance with the
3 level 2 standards for background screening as set forth in
4 chapter 435.

5 (b) The agency may require background screening of any
6 other individual who is affiliated with the applicant if the
7 agency has a reasonable basis for believing that he or she has
8 been convicted of a crime or has committed any other offense
9 prohibited under the level 2 standards for screening set forth
10 in chapter 435.

11 (c) Proof of compliance with the level 2 background
12 screening requirements of chapter 435 which has been submitted
13 within the previous 5 years in compliance with any other
14 health care or assisted living licensure requirements of this
15 state is acceptable in fulfillment of paragraph (a).

16 (d) A provisional registration may be granted to an
17 applicant when each individual required by this section to
18 undergo background screening has met the standards for the
19 abuse-registry background check through the agency and the
20 Department of Law Enforcement background check, but the agency
21 has not yet received background screening results from the
22 Federal Bureau of Investigation. A standard registration may
23 be granted to the applicant upon the agency's receipt of a
24 report of the results of the Federal Bureau of Investigation
25 background screening for each individual required by this
26 section to undergo background screening which confirms that
27 all standards have been met, or upon the granting of a
28 disqualification exemption by the agency as set forth in
29 chapter 435. Any other person who is required to undergo
30 level 2 background screening may serve in his or her capacity
31 pending the agency's receipt of the report from the Federal

1 Bureau of Investigation. However, the person may not continue
2 to serve if the report indicates any violation of background
3 screening standards and if a disqualification exemption has
4 not been requested of and granted by the agency as set forth
5 in chapter 435.

6 (e) Each applicant must submit to the agency, with its
7 application, a description and explanation of any exclusions,
8 permanent suspensions, or terminations of the applicant from
9 the Medicare or Medicaid programs. Proof of compliance with
10 the requirements for disclosure of ownership and control
11 interests under the Medicaid or Medicare programs may be
12 accepted in lieu of this submission.

13 (f) Each applicant must submit to the agency a
14 description and explanation of any conviction of an offense
15 prohibited under the level 2 standards of chapter 435 which
16 was committed by a member of the board of directors of the
17 applicant, its officers, or any individual owning 5 percent or
18 more of the applicant. This requirement does not apply to a
19 director of a not-for-profit corporation or organization who
20 serves solely in a voluntary capacity for the corporation or
21 organization, does not regularly take part in the day-to-day
22 operational decisions of the corporation or organization,
23 receives no remuneration for his or her services on the
24 corporation's or organization's board of directors, and has no
25 financial interest and no family members having a financial
26 interest in the corporation or organization, if the director
27 and the not-for-profit corporation or organization include in
28 the application a statement affirming that the director's
29 relationship to the corporation satisfies the requirements of
30 this paragraph.
31

1 (g) A registration may not be granted to an applicant
2 if the applicant or managing employee has been found guilty
3 of, regardless of adjudication, or has entered a plea of nolo
4 contendere or guilty to, any offense prohibited under the
5 level 2 standards for screening set forth in chapter 435,
6 unless an exemption from disqualification has been granted by
7 the agency as set forth in chapter 435.

8 (h) The agency may deny or revoke the registration of
9 any applicant who:

10 1. Has falsely represented a material fact in the
11 application required by paragraph (e) or paragraph (f), or has
12 omitted any material fact from the application required by
13 paragraph (e) or paragraph (f); or

14 2. Has had prior action taken against the applicant
15 under the Medicaid or Medicare program as set forth in
16 paragraph (e).

17 (i) An application for licensure renewal must contain
18 the information required under paragraphs (e) and (f).

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

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

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

30
31

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

9 | (6) On or before the first day on which services are
10 | provided to a patient or client, any registrant under this
11 | part must inform the patient or client and his or her
12 | immediate family, if appropriate, of the right to report
13 | abusive, neglectful, or exploitative practices. The statewide
14 | toll-free telephone number for the central abuse hotline must
15 | be provided to patients or clients in a manner that is clearly
16 | legible and must include the words: "To report abuse, neglect,
17 | or exploitation, please call toll-free (phone number)."
18 | Registrants must establish appropriate policies and procedures
19 | for providing such notice to patients or clients.

20 | (7) The provisions of s. 400.512 regarding screening
21 | apply to any person or business entity registered under this
22 | section on or after October 1, 1994.

23 | (8) Each applicant for registration under paragraph
24 | (1)(b) must obtain and maintain liability insurance coverage
25 | as defined in s. 624.605(1) in an amount of not less than
26 | \$250,000 per claim and must submit proof of such liability
27 | insurance coverage with its annual application for
28 | registration.

29 | ~~(9)(8)~~ Upon verification that all requirements for
30 | registration have been met, the Agency for Health Care
31 |

1 Administration shall issue a certificate of registration valid
2 for no more than 1 year.

3 ~~(10)(9)~~ The Agency for Health Care Administration may
4 deny, suspend, or revoke the registration of a person that:

5 (a) Fails to comply with this section or applicable
6 rules.

7 (b) Commits an intentional, reckless, or negligent act
8 that materially affects the health or safety of a person
9 receiving services.

10 ~~(11)(10)~~ The Agency for Health Care Administration may
11 institute injunctive proceedings under s. 400.515.

12 ~~(12)(11)~~ A person that offers or advertises to the
13 public a service for which registration is required must
14 include in its advertisement the registration number issued by
15 the Agency for Health Care Administration.

16 ~~(13)(12)~~ It is unlawful for a person to offer or
17 advertise to the public services, as defined by rule, without
18 obtaining a certificate of registration from the Agency for
19 Health Care Administration. It is unlawful for any holder of
20 a certificate of registration to advertise or hold out to the
21 public that he or she holds a certificate of registration for
22 other than that for which he or she actually holds a
23 certificate of registration. Any person who violates this
24 subsection is subject to injunctive proceedings under s.
25 400.515.

26 ~~(14)(13)~~ Any duly authorized officer or employee of
27 the Agency for Health Care Administration has the right to
28 make such inspections and investigations as are necessary in
29 order to respond to complaints or to determine the state of
30 compliance with this section and applicable rules.

31

1 (a) If, in responding to a complaint, an officer or
2 employee of the Agency for Health Care Administration has
3 reason to believe that a crime has been committed, he or she
4 shall notify the appropriate law enforcement agency.

5 (b) If, in responding to a complaint, an officer or
6 employee of the Agency for Health Care Administration has
7 reason to believe that abuse, neglect, or exploitation has
8 occurred, according to the definitions in chapter 415, he or
9 she shall file a report under chapter 415.

10 ~~(15)~~~~(14)~~ In addition to any other penalties imposed
11 pursuant to this section or part, the agency may assess costs
12 related to an investigation that results in a successful
13 prosecution, excluding costs associated with an attorney's
14 time. If the agency imposes such an assessment and the
15 assessment is not paid, and if challenged is not the subject
16 of a pending appeal, prior to the renewal of the registration,
17 the registration may ~~shall~~ not be issued until the assessment
18 is paid or arrangements for payment of the assessment are
19 made.

20 ~~(16)~~~~(15)~~ The Agency for Health Care Administration
21 shall adopt rules to administer this section.

22 Section 2. This act shall take effect July 1, 2006.

23 *****

24
25 SENATE SUMMARY

26 Exempts from licensure organizations that provide certain
27 personal care services. Requires organizations that
28 provide personal care services to register with the
29 Agency for Health Care Administration and to maintain
30 liability insurance coverage.
31