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CS/CS/HB 1179

2014 Legislature

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2 An act relating to home health care; amending s.  
3 400.471, F.S.; exempting certain home health agencies  
4 from specified licensure application requirements;  
5 amending s. 400.506, F.S.; requiring a licensed nurse  
6 registry to ensure that each certified nursing  
7 assistant and home health aide referred by the  
8 registry present certain credentials; providing that  
9 registered nurses, licensed practical nurses,  
10 certified nursing assistants, companions or  
11 homemakers, and home health aides are independent  
12 contractors and not employees of the nurse registries  
13 that referred them; requiring a nurse registry to  
14 inform the patient, the patient's family, or a person  
15 acting on behalf of the patient that the referred  
16 caregiver is an independent contractor and that the  
17 nurse registry is not required to monitor, supervise,  
18 manage, or train the referred caregiver; providing the  
19 duties of the nurse registry for a violation of  
20 certain laws by an individual referred by the nurse  
21 registry; requiring that certain records be kept in  
22 accordance with rules set by the Agency for Health  
23 Care Administration; providing that a nurse registry  
24 does not have an obligation to review or act upon such  
25 records except under certain circumstances; providing  
26 an effective date.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (h) of subsection (2) of section 400.471, Florida Statutes, is amended to read:

400.471 Application for license; fee.—

(2) In addition to the requirements of part II of chapter 408, the initial applicant must file with the application satisfactory proof that the home health agency is in compliance with this part and applicable rules, including:

(h) 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 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

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53 accrediting organization that is recognized by the agency if the  
54 accreditation of the licensed home health agency is not  
55 provisional and if the licensed home health agency authorizes  
56 releases of, and the agency receives the report of, the  
57 accrediting organization.

58 Section 2. Paragraph (a) of subsection (6) of section  
59 400.506, Florida Statutes, is amended, paragraphs (d) and (e)  
60 are added to that subsection, and subsections (19) and (20) are  
61 added to that section, to read:

62 400.506 Licensure of nurse registries; requirements;  
63 penalties.—

64 (6) (a) A nurse registry may refer for contract in private  
65 residences registered nurses and licensed practical nurses  
66 registered and licensed under part I of chapter 464, certified  
67 nursing assistants certified under part II of chapter 464, home  
68 health aides who present documented proof of successful  
69 completion of the training required by rule of the agency, and  
70 companions or homemakers for the purposes of providing those  
71 services authorized under s. 400.509(1). A licensed nurse  
72 registry shall ensure that each certified nursing assistant  
73 referred for contract by the nurse registry and each home health  
74 aide referred for contract by the nurse registry has presented  
75 credentials demonstrating that he or she is adequately trained  
76 to perform the tasks of a home health aide in the home setting.  
77 Each person referred by a nurse registry must provide current  
78 documentation that he or she is free from communicable diseases.

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79       (d) A registered nurse, licensed practical nurse,  
80 certified nursing assistant, companion or homemaker, or home  
81 health aide referred for contract under this chapter by a nurse  
82 registry is deemed an independent contractor and not an employee  
83 of the nurse registry regardless of the obligations imposed on a  
84 nurse registry under this chapter or chapter 408.

85       (e) Upon referral of a registered nurse, licensed  
86 practical nurse, certified nursing assistant, companion or  
87 homemaker, or home health aide for contract in a private  
88 residence or facility, the nurse registry shall advise the  
89 patient, the patient's family, or any other person acting on  
90 behalf of the patient, at the time of the contract for services,  
91 that the caregiver referred by the nurse registry is an  
92 independent contractor and that it is not the obligation of a  
93 nurse registry to monitor, supervise, manage, or train a  
94 caregiver referred for contract under this chapter.

95       (19) It is not the obligation of a nurse registry to  
96 monitor, supervise, manage, or train a registered nurse,  
97 licensed practical nurse, certified nursing assistant, companion  
98 or homemaker, or home health aide referred for contract under  
99 this chapter. In the event of a violation of this chapter or a  
100 violation of any other law of this state by a referred  
101 registered nurse, licensed practical nurse, certified nursing  
102 assistant, companion or homemaker, or home health aide, or a  
103 deficiency in credentials which comes to the attention of the  
104 nurse registry, the nurse registry shall advise the patient to

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105 terminate the referred person's contract, providing the reason  
106 for the suggested termination; cease referring the person to  
107 other patients or facilities; and, if practice violations are  
108 involved, notify the licensing board. This section does not  
109 affect or negate any other obligations imposed on a nurse  
110 registry under chapter 408.

111 (20) Records required to be filed under this chapter with  
112 the nurse registry as a repository of records must be kept in  
113 accordance with rules adopted by the agency. The nurse registry  
114 has no obligation to review or act upon such records except as  
115 specified in subsection (19).

116 Section 3. This act shall take effect July 1, 2014.