

By the Committees on Judiciary; and Health Policy; and Senator Bean

590-03527-14

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1 A bill to be entitled
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 a referred
16 caregiver is an independent contractor and that the
17 nurse registry is not required to monitor, supervise,
18 manage, or train a registered nurse, licensed
19 practical nurse, certified nursing assistant,
20 companion or homemaker, or home health aide referred
21 by the nurse registry; providing the duties of the
22 nurse registry for a violation of certain laws by an
23 individual referred by the nurse registry; requiring
24 that certain records be kept in accordance with rules
25 set by the Agency for Health Care Administration;
26 providing that a nurse registry does not have an
27 obligation to review and act upon such records except
28 under certain circumstances; providing an effective
29 date.

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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 accrediting organization that is recognized by the agency if the accreditation of the licensed home health agency is not provisional and if the licensed home health agency authorizes

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59 releases of, and the agency receives the report of, the
60 accrediting organization.

61 Section 2. Paragraph (a) of subsection (6) of section
62 400.506, Florida Statutes, is amended, and paragraphs (d) and
63 (e) are added to that subsection, and subsections (19) and (20)
64 are added to that section, to read:

65 400.506 Licensure of nurse registries; requirements;
66 penalties.—

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

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

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

98 (19) It is not the obligation of a nurse registry to
99 monitor, supervise, manage, or train a registered nurse,
100 licensed practical nurse, certified nursing assistant, companion
101 or homemaker, or home health aide referred for contract under
102 this chapter. In the event of a violation of this chapter or a
103 violation of any other law of this state by a referred
104 registered nurse, licensed practical nurse, certified nursing
105 assistant, companion or homemaker, or home health aide, or a
106 deficiency in credentials which comes to the attention of the
107 nurse registry, the nurse registry shall advise the patient to
108 terminate the referred person's contract, providing the reason
109 for the suggested termination; cease referring the individual to
110 other patients or facilities; and, if practice violations are
111 involved, notify the licensing board. This section does not
112 affect or negate any other obligations imposed on a nurse
113 registry under chapter 408.

114 (20) Records required under this chapter to be filed with
115 the nurse registry as a repository of records must be kept in
116 accordance with rules adopted by the agency, and the nurse

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117 registry has no obligation to review and act upon such records
118 except as specified in subsection (19).

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