PALM BEACH NURSING CARE
Making the Difference

C.N.A.
&
HOME HEALTH AIDE

PACKET

C.N.A. & HOME HEALTH AIDE
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**Legal Statement**

In accordance to Chapter 400, F.S. we are required to provide you with the following materials. Please retain these materials for your reference.

- 59A-18.005(6) F.A.C. Registration Policies Heath Requirements
- 59A-18.0081 F.A.C. Certified Nursing Assistant and Home Health Aide
- Sections of Chapter 400, F.S. 400.506, 400.809, 400.484, 400.462, and 400.488
- Chapter 408.810(5)(a) F.S.
- Chapter 760.16.57 Office of Civil Rights
- Self-Employment Taxes
- Registry NON-DISCRIMINATION POLICY
- Registry Confidentiality Policy

**59A-18.005 Registration Policies.**

(1) Each nurse registry shall disseminate the following rules and statutes to each applicable independent contractor at the time of registration.

(a) Registered nurses and licensed practical nurses shall receive for their use and reference:
   1. Subsection 59A-18.005(6), F.A.C., regarding health statements and communicable disease.
   2. Rule 59A-18.007, F.A.C., Registered Nurses and Licensed Practical Nurses.
   6. Sections 400.506, 400.512, 400.484, 400.462, 400.488, and 400.495,F.S.

(b) Certified nursing assistants and home health aides shall receive for their use and reference:
   1. Subsection 59A-18.005(6), F.A.C., regarding health statements and communicable disease.
   2. Rule 59A-18.0081, F.A.C., Certified Nursing Assistant and Home Health Aide.
   3. Sections 400.506, 400.512, 400.484, 400.462, 400.488, and 400.495, F.S.

(c) Homemakers and companions shall receive for their use and reference:
   2. Sections 400.506, 400.512, 400.484, 400.462, and 400.495, F.S.

(2) Each nurse registry shall establish written procedures for the selection, documentation, screening and verification of credentials for each independent contractor referred by the registry.

(3) Each nurse registry shall confirm a new independent contractor’s licensure or certification with the issuing board or department. Confirmation shall be based upon specific written requests or oral communications with the issuing authority. It shall be documented in the individual’s registrations file how confirmation was obtained, from whom, and who made the inquiry on behalf of the registry.

(4) Each nurse registry shall, at least annually, reconfirm the licensure or certification of all of its independent contractors who are licensed or certified.

(5) Each nurse registry shall confirm the identity of the independent contractor prior to
referral. Identification shall be verified by using the individual’s current driver’s license or other photo identification, including the professional license or certificate.

(6) Prior to contact with patients, each independent contractor referred for client care must furnish to the registry a statement from a health care professional licensed under Chapter 458, F.S., or Chapter 459, F.S., a physician’s assistant, or an advanced registered nurse practitioner (ARNP), or a registered nurse licensed under Chapter 464, F.S., under the supervision of a licensed physician, or acting pursuant to an established protocol signed by a licensed physician, based upon an examination within the last six months, that the contractor is free from communicable disease. If any independent contractor is later found to have, or is suspected of having, a communicable disease, he or she shall immediately cease to be referred as an independent contractor. If the independent contractor later provides a statement from a health care professional that such condition no longer exists, then the nurse registry can again refer patients to the independent contractor. It is the responsibility of the independent contractor to ensure that patients are not placed at risk by immediately removing him or herself as a caregiver if he or she is found to have or is suspected of having a communicable disease. In the event that an independent contractor refuses to remove him or herself, the nurse registry shall report the situation to the county health department as an immediate threat to health, welfare, and safety.

(7) Each nurse registry shall, in its contracts with independent contractors, provide instructions as to responsibility for the payment of self-employment estimated taxes, and a statement as to the registry’s commitment to compliance with civil rights requirements, pursuant to Chapter 760, F.S.

(8) Registration folders on each independent contractor must contain the information required in Section 400.506(12), F.S.:
(a) For home health aides, evidence of completion of a home health aide training course;
(b) Evidence of a contract with the nurse registry;
(c) Evidence of background screening; and
(d) Each nurse registry shall establish a system for the recording and follow-up of complaints involving individuals they refer, and such records shall be kept in the individual’s registration file or retained in the central files of the nurse registry.

59A-18.0081 Certified Nursing Assistant and Home Health Aide.
The certified nursing assistant (C.N.A.) and the home health aide shall:

(1) Be limited to assisting a patient in accordance with Section 400.506(10)(b), F.S.;
(2) Be responsible for documenting services provided to the patient or client and for filing said documentation with the nurse registry on a regular basis. These service logs will be stored by the nurse registry in the client’s file. The service logs shall include the name of the patient or client and a listing of the services provided;
(3) Be responsible for observing appearance and gross behavioral changes in the patient and reporting these changes to the caregiver and the nurse registry or the registered nurse responsible for assessing the case when giving care in the home or to the responsible facility employee if staffing in a facility;
(4) Be responsible to maintain a clean, safe and healthy environment, which may include light cleaning and straightening of the bathroom, straightening the sleeping and living areas,
washing the patient’s dishes or laundry, and such tasks to maintain cleanliness and safety for the patient;

(5) Perform other activities as taught and documented by a registered nurse, concerning activities for a specific patient and restricted to the following:
(a) Assisting with the change of a colostomy bag, reinforcement of dressing;
(b) Assisting with the use of devices for aid to daily living such as a wheelchair or walker;
(c) Assisting with prescribed range of motion exercises;
(d) Assisting with prescribed ice cap or collar;
(e) Doing simple urine tests for sugar, acetone or albumin;
(f) Measuring and preparing special diets;
(g) Measuring intake and output of fluids; and
(h) Measuring temperature, pulse, respiration or blood pressure.

(6) Be prohibited from changing sterile dressings, irrigating body cavities such as giving an enema, irrigating a colostomy or wound, performing gastric irrigation or enteral feeding, catheterizing a patient, administering medications, applying heat by any method, or caring for a tracheotomy tube.

(7) For every C.N.A., a nurse registry shall have on file a copy of the person’s State of Florida certification.

(8) For every home health aide, a nurse registry shall have on file documentation of successful completion of at least forty hours of training, pursuant to Section 400.506(10)(a), F.S., in the following subject areas:
(a) Communication skills;
(b) Observation, reporting and documentation of patient status and the care or services provided;
(c) Reading and recording temperature, pulse and respiration;
(d) Basic infection control procedures;
(e) Basic elements of body functions that must be reported to the patient’s registered nurse or physician;
(f) Maintenance of a clean, safe, and healthy environment;
(g) Recognition of emergencies and knowledge of emergency procedures;
(h) Physical, emotional, and developmental characteristics of the populations served by the registry, including the need for respect for the patient, his privacy, and his property;
(i) Appropriate and safe techniques in personal hygiene and grooming, including bed bath, sponge, tub, or shower bath; shampoo, sink, tub, or bed; nail and skin care; oral hygiene;
(j) Safe transfer techniques and ambulation;
(k) Normal range of motion and positioning;
(l) Adequate nutrition and fluid intake;
(m) The role of the aide in the home;
(n) Differences in families;
(o) Food and household management; and
(p) Other health-related topics pertinent to home health aide services offered in the home.

(9) Individuals who earn their C.N.A. certificate in another state must contact the Florida Certified Nursing Assistant office at the Department of Health to inquire about taking the
written examination prior to working as a C.N.A. in Florida, pursuant to Part II of Chapter 464, F.S.

(10) Home health aides who complete their training in another state must provide a copy of the course work and a copy of their training documentation to the nurse registry. If the course work is equivalent to Florida’s requirements, the nurse registry may refer the home health aide for contract. If the home health aide’s course work does not meet Florida’s requirements, the home health aide must receive training in a school approved by the Department of Education to the extent necessary to bring the training into compliance with subsection 59A-18.0081(8), F.A.C., prior to being referred for contract.

(11) C.N.A.s and home health aides referred by nurse registries must maintain a current CPR certification;

(12) C.N.A.s and home health aides referred by nurse registries may assist with self-administration of medication as described in Section 400.488, F.S.

(a) Home health aides and C.N.A.s assisting with self-administered medication, as described in Section 400.488, F.S., shall have received a minimum of 2 hours of training covering the following content:

1. Training shall cover state law and rule requirements with respect to the assistance with self-administration of medications in the home, procedures for assisting the resident 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 C.N.A. and home health aide can read the prescription label and any instructions.

2. Individuals who cannot read shall not be permitted to assist with prescription medications.

(b) Documentation of training on assistance with self-administered medication from one of the following sources is acceptable:

1. Documentation of 2 hours of training in compliance with subsection 59A-8.0095(5), F.A.C., from a home health agency if the home health aide or C.N.A. previously worked for the home health agency;

2. A training certificate for 4 hours of training for assisted living facility staff in compliance with subsection 58A-5.0191(5), F.A.C.

3. A training certificate for at least 2 hours of training from a career education school licensed pursuant to Chapter 1005, F.S., and Chapter 6E, F.A.C., by the Department of Education, Commission for Independent Education.

(c) Documentation of the training must be maintained in the file of each home health aide and C.N.A. who assists patients with self-administered medication.

(d) In cases where a home health aide or a C.N.A. will provide assistance with self-administered medications as described in Section 400.488, F.S., and paragraph (e) below, a review of the medications for which assistance is to be provided shall be conducted by a registered nurse or licensed practical nurse to ensure the C.N.A. and home health aide are able to assist in accordance with their training and with the medication prescription. The patient or the patient’s surrogate, guardian, or attorney in fact must give written consent for a home health aide or C.N.A. to provide assistance with self-administered medications, as required in Section 400.488(2), F.S.
(e) The trained home health aide and C.N.A. may also provide the following assistance with self-administered medication, as needed by the patient and as described in 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.

400.506 Licensure of Nurse Registries; Requirements; Penalties.
(1) A nurse registry is exempt from the licensing requirements of a home health agency but must be licensed as a nurse registry. The requirements of part II of chapter 408 apply to the provision of services that require licensure pursuant to ss. 400.506-400.518 and part II of chapter 408 and to entities licensed by or applying for such license from the Agency for Health Care Administration pursuant to ss. 400.506-400.518. A license issued by the agency is required for the operation of a nurse registry. Each operational site of the nurse registry must be licensed, unless there is more than one site within a county. If there is more than one site within a county, only one license per county is required. Each operational site must be listed on the license.
(2) Each applicant for licensure and each licensee must comply with all provisions of part II of chapter 408 and this section.
(3) In accordance with s. 408.805, an applicant or licensee shall pay a fee for each license application submitted under ss. 400.506-400.518, part II of chapter 408, and applicable rules. The amount of the fee shall be established by rule and may not exceed $2,000 per biennium.
(4) A person that provides, offers, or advertises to the public any service for which licensure is required under this section must include in such advertisement the license number issued to it by the Agency for Health Care Administration. The agency shall assess a fine of not less than $100 against any licensee who fails to include the license number when submitting the advertisement for publication, broadcast, or printing. The fine for a second or subsequent offense is $500.
(5)(a) In addition to the requirements of s. 408.812, any person who owns, operates, or maintains an unlicensed nurse registry and who, within 10 working days after receiving notification from the agency, fails to cease operation and apply for a license under this part commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Each day of continued operation is a separate offense.
(b) If a nurse registry fails to cease operation after agency notification, the agency may impose a fine of $500 for each day of noncompliance.
(6)(a) A nurse registry may refer for contract in private residences registered nurses and licensed practical nurses registered and licensed under part I of chapter 464, certified nursing assistants certified under part II of chapter 464, home health aides who present documented proof of successful completion of the training required by rule of the agency, and companions
or homemakers for the purposes of providing those services authorized under s. 400.509(1). A licensed nurse registry shall ensure that each certified nursing assistant referred for contract by the nurse registry and each home health aide referred for contract by the nurse registry is adequately trained to perform the tasks of a home health aide in the home setting. Each person referred by a nurse registry must provide current documentation that he or she is free from communicable diseases.

(b) A certified nursing assistant or home health aide may be referred for a contract to provide care to a patient in his or her home only if that patient is under a physician’s care. A certified nursing assistant or home health aide referred for contract in a private residence shall be limited to assisting a patient with bathing, dressing, toileting, grooming, eating, physical transfer, and those normal daily routines the patient could perform for himself or herself were he or she physically capable. A certified nursing assistant or home health aide may not provide medical or other health care services that require specialized training and that may be performed only by licensed health care professionals. The nurse registry shall obtain the name and address of the attending physician and send written notification to the physician within 48 hours after a contract is concluded that a certified nursing assistant or home health aide will be providing care for that patient.

(c) When a certified nursing assistant or home health aide is referred to a patient’s home by a nurse registry, the nurse registry shall advise the patient, the patient’s family, or any other person acting on behalf of the patient at the time the contract for services is made that registered nurses are available to make visits to the patient’s home for an additional cost.

(7) A person who is referred by a nurse registry for contract in private residences and who is not a nurse licensed under part I of chapter 464 may perform only those services or care to clients that the person has been certified to perform or trained to perform as required by law or rules of the Agency for Health Care Administration or the Department of Business and Professional Regulation. Providing services beyond the scope authorized under the subsection constitutes the unauthorized practice of medicine or a violation of the Nurse Practice Act and is punishable as provided under chapter 458, chapter 459, or part I of chapter 464.

(8) Each nurse registry must require every applicant for contract to complete an application form providing the following information:

(a) The name, address, date of birth, and social security number of the applicant.
(b) The educational background and employment history of the applicant.
(c) The number and date of the applicable license or certification.
(d) When appropriate, information concerning the renewal of the applicable license, registration, or certification.
(e) Proof of completion of a continuing education course on modes of transmission, infection control procedures, clinical management, and prevention of human immunodeficiency virus and acquired immune deficiency syndrome with an emphasis on appropriate behavior and attitude change. Such instruction shall include information on current Florida Law and its effect on testing, confidentiality of test results, and treatment of patients and any protocols and procedures applicable to human immunodeficiency virus counseling and testing, reporting, offering HIV testing to pregnant women, and partner notification issues pursuant to ss. 381.004 and 384.25.
Each nurse registry must comply with the procedures set forth in s. 400.512 for maintaining records of the work history of all persons referred for contract and is subject to the standards and conditions set forth in that section. However, an initial screening may not be required for persons who have been continuously registered with the nurse registry since October 1, 2000.

The nurse registry must maintain the application on file, and that file must be open to the inspection of the Agency for Health Care Administration. The nurse registry must maintain on file the name and address of the patient or client to whom nurse registry personnel are referred for contract and the amount of the fee received by the nurse registry. A nurse registry must maintain the file that includes the application and other applicable documentation for 3 years after the date of the last file entry of patient-related or client-related information.

Nurse registries shall assist persons who would need assistance and sheltering during evacuations because of physical, mental, or sensory disabilities in registering with the appropriate local emergency management agency pursuant to s. 252.355.

Each nurse registry shall prepare and maintain a comprehensive emergency management plan that is consistent with the criteria in this subsection and with the local special needs plan. The plan shall be updated annually. The plan shall include the means by which the nurse registry will continue to provide the same type and quantity of services to its patients who evacuate to special needs shelters which were being provided to those patients prior to evacuation. The plan shall specify how the nurse registry shall facilitate the provision of continuous care by persons referred for contract to persons who are registered pursuant to s. 252.355 during an emergency that interrupts the provision of care or services in private residences. Nurse registries may establish links to local emergency operations centers to determine a mechanism by which to approach specific areas within a disaster area in order for a provider to reach its clients. Nurse registries shall demonstrate a good faith effort to comply with the requirements of this subsection by documenting attempts of staff to follow procedures outlined in the nurse registry’s comprehensive emergency management plan which support a finding that the provision of continuing care has been attempted for patients identified as needing care by the nurse registry and registered under s. 252.355 in the event of an emergency under this subsection.

(a) All persons referred for contract who care for persons registered pursuant to s. 252.355 must include in the patient record a description of how care will be continued during a disaster or emergency that interrupts the provision of care in the patient’s home. It shall be the responsibility of the person referred for contract to ensure that continuous care is provided.

(b) Each nurse registry shall maintain a current prioritized list of patients in private residences who are registered pursuant to s. 252.355 and are under the care of persons referred for contract and who need continued services during an emergency. This list shall indicate, for each patient, if the client is to be transported to a special needs shelter and if the patient is receiving skilled nursing services. Nurse registries shall make this list available to county health departments and to local emergency management agencies upon request.

(c) Each person referred for contract who is caring for a patient who is registered pursuant to s. 252.355 shall provide a list of the patient’s medication and equipment needs to the nurse registry. Each person referred for contract shall make this information available to county health departments and to local emergency management agencies upon request.
(d) Each person referred for contract shall not be required to continue to provide care to patients in emergency situations that are beyond the person’s control and that make it impossible to provide services, such as when roads are impassable or when patients do not go to the location specified in their patient records.

(e) The comprehensive emergency management plan required by this subsection is subject to review and approval by the county health department. During its review, the county health department shall contact state and local health and medical stakeholders when necessary. The county health department shall complete its review to ensure that the plan complies with the criteria in the Agency for Health Care Administration rules within 90 days after receipt of the plan and shall either approve the plan or advise the nurse registry of necessary revisions. If a nurse registry fails to submit a plan or fails to submit requested information or revisions to the county health department, the county health department shall notify the Agency for Health Care Administration. The agency shall notify the nurse registry that its failure constitutes a deficiency, subject to a fine of $5,000 per occurrence. If the plan is not submitted, information is not provided, or revisions are not made as requested, the agency may impose the fine.

(f) The Agency for Health Care Administration shall adopt rules establishing minimum criteria for the comprehensive emergency management plan and plan updates required by this subsection, with the concurrence of the Department of Health and in consultation with the Department of Community Affairs.

(13) All persons referred for contract in private residences by a nurse registry must comply with the following requirements for a plan of treatment:

(a) When, in accordance with the privileges and restrictions imposed upon a nurse under part I of chapter 464, the delivery of care to a patient is under the direction or supervision of a physician or when a physician is responsible for the medical care of the patient, a medical plan of treatment must be established for each patient receiving care or treatment provided by a licensed nurse in the home. The original medical plan of treatment must be timely signed by the physician, physician assistant, or advanced registered nurse practitioner, acting within his or her respective scope of practice, and reviewed in consultation with the licensed nurse at least every 2 months. Any additional order or change in orders must be obtained from the physician, physician assistant, or advanced registered nurse practitioner and reduced to writing and timely signed by the physician, physician assistant, or advanced registered nurse practitioner. The delivery of care under a medical plan of treatment must be substantiated by the appropriate nursing notes or documentation made by the nurse in compliance with nursing practices established under part I of chapter 464.

(b) Whenever a medical plan of treatment is established for a patient, the initial medical plan of treatment, any amendment to the plan, additional order or change in orders, and copy of nursing notes must be filed in the office of the nurse registry.

(14) The nurse registry must comply with the notice requirements of s. 408.810(5), relating to abuse reporting.

(15)(a) The agency may deny, suspend, or revoke the license of a nurse registry and shall impose a fine of $5,000 against a nurse registry that:

1. Provides services to residents in an assisted living facility for which the nurse registry does not receive fair market value remuneration.
2. Provides staffing to an assisted living facility for which the nurse registry does not receive fair market value remuneration.
3. Fails to provide the agency, upon request, with copies of all contracts with assisted living facilities which were executed within the last 5 years.
4. Gives remuneration to a case manager, discharge planner, facility-based staff member, or third-party vendor who is involved in the discharge planning process of a facility licensed under chapter 395 or this chapter and from whom the nurse registry receives referrals. A nurse registry is exempt from this subparagraph if it does not bill the Florida Medicaid program or the Medicare program or share a controlling interest with any entity licensed, registered, or certified under part II of chapter 408.
5. Gives remuneration to a physician, a member of the physician’s office staff, or an immediate family member of the physician, and the nurse registry received a patient referral in the last 12 months from that physician or the physician’s office staff. A nurse registry is exempt from this subparagraph if it does not bill the Florida Medicaid program or the Medicare program or share a controlling interest with any entity licensed, registered, or certified under part II of chapter 408.

(b) The agency shall also impose an administrative fine of $15,000 if the nurse registry refers nurses, certified nursing assistants, home health aides, or other staff without charge to a facility licensed under chapter 429 in return for patient referrals from the facility.
(c) The proceeds of all fines collected under this subsection shall be deposited into the Health Care Trust Fund.

(16) In addition to any other penalties imposed pursuant to this section or part, the agency may assess costs related to an investigation that results in a successful prosecution, excluding costs associated with an attorney’s time.
(17) The Agency for Health Care Administration shall adopt rules to implement this section and part II of chapter 408.

408.809, F.S. Screening of Home Health Agency Personnel; Nurse Registry Personnel; and Companions and Homemakers. (Replaced 400.512)
Screening of home health agency personnel; nurse registry personnel and contractors; and companions and homemakers. The agency, registry, or service shall require Level 2 background screening for all employees or contractors as required in s. 408.809(1)(e) pursuant to chapter 435 and s. 408.809. Any person seeking employment that may provide personal care or services directly to clients, or have access to client’s living areas, personal property or funds must have Level 2 background screening. Results must be obtained prior to contracting or employment.
Administrators and Financial Officers must have Level 2 background screening.
Persons already hired or under contract with the nurse registry as of July 31, 2010 or earlier who have already been screened as Level 1 will be re-screened for Level 2 over a 5-year period ending July 31, 2015.
- Additional disqualifying offenses added to 435.04 Level 2 screening standards effective August 1
If re-screening of existing contractors finds a disqualifying offense committed prior to the last screening and not disqualifying at the time, person can continue to work if:

- Agreed to by employer while applying for an exemption and
- The application for exemption is received within 30 days from receipt of re-screening results.

All Level 2 persons required to be re-screened every 5 years

Person must not have an arrest awaiting final disposition for any disqualifying offenses in 435.04 and 408.809(4), F.S. The contractor is Not eligible to work until there is a final court disposition and AHCA determines person to be eligible. A person is not eligible to apply for an Exemption from Disqualification until 3 years after he/she has completed or been lawfully released from confinement, probation, or other sanction for the disqualifying criminal offense.

Persons designated as sexual predators, sexual offenders, or career offenders are not eligible to work.

Cost of screening may be paid by licensee or person being screened.

FDLE may retain fingerprints – can be used for future screening – additional fee from FDLE for retaining

**Background Screening – Electronic Format**

All fingerprints will be submitted by electronic format by July 1, 2012.

All Level 2 screening requests will be submitted through a LiveScan vendor approved to submit fingerprint requests through the Florida Department of Law Enforcement (FDLE). FDLE sends on to FBI. Results will be sent to AHCA for review & determination if eligible to work. Status will be posted at AHCA’s secure background screening website.

**400.484 Right of Inspection; Deficiencies; Fines.**

(1) In addition to the requirements of s. 408.811, the agency may make such inspections and investigations as are necessary in order to determine the state of compliance with this part, part II of chapter 408, and applicable rules.

(2) The agency shall impose fines for various classes of deficiencies in accordance with the following schedule:

(a) A class I deficiency is any act, omission, or practice that results in a patient’s death, disablement, or permanent injury, or places a patient at imminent risk of death, disablement, or permanent injury. Upon finding a class I deficiency, the agency shall impose an administrative fine in the amount of $15,000 for each occurrence and each day that the deficiency exists.

(b) A class II deficiency is any act, omission, or practice that has a direct adverse effect on the health, safety, or security of a patient. Upon finding a class II deficiency, the agency shall impose an administrative fine in the amount of $5,000 for each occurrence and each day that the deficiency exists.

(c) A class III deficiency is any act, omission, or practice that has an indirect, adverse effect on the health, safety, or security of a patient. Upon finding an uncorrected or repeated class III deficiency, the agency shall impose an administrative fine not to exceed $1,000 for each occurrence and each day that the uncorrected or repeated deficiency exists.

(d) A class IV deficiency is any act, omission, or practice related to required reports, forms, or documents which do not have the potential of negatively affecting patients. These violations
are of a type that the agency determines do not threaten the health, safety, or security of patients. Upon finding an uncorrected or repeated class IV deficiency, the agency shall impose an administrative fine not to exceed $500 for each occurrence and each day that the uncorrected or repeated deficiency exists.

(3) In addition to any other penalties imposed pursuant to this section or part, the agency may assess costs related to an investigation that results in a successful prosecution, excluding costs associated with an attorney’s time.

400.462 Definitions. As used in this part, the term:

(3) “Advanced registered nurse practitioner” means a person licensed in this state to practice professional nursing and certified in advanced or specialized nursing practice, as defined in s. 464.003.

(4) “Agency” means the Agency for Health Care Administration.

(5) “Certified nursing assistant” means any person who has been issued a certificate under part II of chapter 464.

(6) “Client” means an elderly, handicapped, or convalescent individual who receives companion services or homemaker services in the individual’s home or place of residence.

(7) “Companion” or “Sitter” means a person who spends time with or cares for an elderly, handicapped, or convalescent individual and accompanies such individual on trips and outings and may prepare and serve meals to such individual. A companion may not provide hands-on personal care to a client.

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

(11) “Fair market value” means the value in arms length transactions, consistent with the price that an asset would bring as the result of bona fide bargaining between well-informed buyers and sellers who are not otherwise in a position to generate business for the other party, or the compensation that would be included in a service agreement as the result of bona fide bargaining between well-informed parties to the agreement who are not otherwise in a position to generate business for the other party, on the date of acquisition of the asset or at the time of the service agreement.

(15) “Home health aide” means a person who is trained or qualified, as provided by rule, and who provides hands-on personal care, performs simple procedures as an extension of therapy or nursing services, assists in ambulation or exercises, or assists in administering medications as permitted in rule and for which the person has receive training established by the agency under s. 400.497(1).

(16) “Homemaker” means a person who performs household chores that include housekeeping, meal planning and preparation, shopping assistance, and routine household activities for an elderly, handicapped, or convalescent individual. A homemaker may not provide hands-on personal care to a client.

(17) “Home infusion therapy provider” means an organization that employs, contracts with, or refers a licensed professional who has received advanced training and experience in intravenous infusion therapy and who administers infusion therapy to a patient in the patient’s home or place of residence.

(18) “Home infusion therapy” means the administration of intravenous pharmacological or nutritional products to a patient in his or her home.
(19) “Immediate family member” means a husband or wife; a birth or adoptive parent, child, or sibling; a stepparent, stepchild, stepbrother, or stepsister; a father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law; a grandparent or grandchild; or a spouse of a grandparent or grandchild.

(21) “Nurse registry” means any person that procures, offers, promises, or attempts to secure health-care-related contracts for registered nurses, licensed practical nurses, certified nursing assistants, home health aides, companions, or homemakers, who are compensated by fees as independent contractors, including, but not limited to, contracts for the provision of services to patients and contracts to provide private duty or staffing services to health care facilities licensed under chapter 395, this chapter, or chapter 429, or other business entities.

(22) “Organization” means a corporation, government or governmental subdivision or agency, partnership or association, or any other legal or commercial entity, any of which involve more than one health care professional discipline; a health care professional and a home health aide or certified nursing assistant; more than one home health aide; more than one certified nursing assistant; or a home health aide and a certified nursing assistant. The term does not include an entity that provides services using only volunteers or only individuals related by blood or marriage to the patient or client.

(23) “Patient” means any person who receives home health services in his or her home or place of residence.

(24) “Personal care” means assistance to a patient in the activities of daily living, such as dressing, bathing, eating, or personal hygiene, and assistance in physical transfer, ambulation, and in administering medications as permitted by rule.

(25) “Physician” means a person licensed under chapter 458, chapter 459, chapter 460, or chapter 461.

(26) “Physician assistant” means a person who is a graduate of an approved program or its equivalent, or meets standards approved by the boards, and is licensed to perform medical services delegated by the supervising physician, as defined in s. 458.347 or s. 459.022.

(27) “Remuneration” means any payment or other benefit made directly or indirectly, overtly or covertly, in cash or in kind.

(28) “Skilled care” means nursing services or therapeutic services required by law to be delivered by a health care professional who is licensed under part I of chapter 464; part I, part III, or part V of chapter 468; or chapter 486 and who is employed by or under contract with a licensed home health agency or is referred by a licensed nurse registry.

(29) “Staffing services” means services provided to a health care facility, school, or other business entity on a temporary or school-year basis pursuant to a written contract by licensed health care personnel and by certified nursing assistants and home health aides who are employed by, or work under the auspices of, a licensed home health agency or who are registered with a licensed nurse registry.

400.488 Assistance with Self-Administration of Medication.

(1) For purposes of this section, the term:

(a) “Informed consent” means advising the patient, or the patient’s surrogate, guardian, or attorney in fact, that the patient may be receiving assistance with self-administration of medication from an unlicensed person.
“Unlicensed person” means an individual not currently licensed to practice nursing or medicine who is employed by or under contract to a home health agency and who has received training with respect to assisting with the self-administration of medication as provided by agency rule.

(2) Patients who are capable of self-administering their own medications without assistance shall be encouraged and allowed to do so. However, an unlicensed person may, consistent with a dispensed prescription’s label or the package directions of an over-the-counter medication, assist a patient whose condition is medically stable with the self-administration of routine, regularly scheduled medications that are intended to be self-administered. Assistance with self-medication by an unlicensed person may occur only upon a documented request by, and the written informed consent of, a patient or the patient’s surrogate, guardian, or attorney in fact. For purposes of this section, self-administered medications include both legend and over-the-counter oral dosage forms, topical dosage forms, and topical ophthalmic, otic, and nasal dosage forms, including solutions, suspensions, sprays, and inhalers.

(3) Assistance with self-administration of medication includes:
   (a) Taking the medication, in its previously dispensed, properly labeled container, from where it is stored and bringing it to the patient.
   (b) In the presence of the patient, reading the label, opening the container, removing a prescribed amount of medication from the container, and closing the container.
   (c) Placing an oral dosage in the patient’s hand or placing the dosage in another container and helping the patient by lifting the container to his or her mouth.
   (d) Applying topical medications.
   (e) Returning the medication container to proper storage.
   (f) Keeping a record of when a patient receives assistance with self-administration under this section.

(4) Assistance with self-administration does not include:
   (a) Mixing, compounding, converting, or calculating medication doses, except for measuring a prescribed amount of liquid medication or breaking a scored tablet or crushing a tablet as prescribed.
   (b) The preparation of syringes for injection or the administration of medications by any injectable route.
   (c) Administration of medications through intermittent positive pressure breathing machines or a nebulizer.
   (d) Administration of medications by way of a tube inserted in a cavity of the body.
   (e) Administration of parenteral preparations.
   (f) Irrigations or debriding agents used in the treatment of a skin condition.
   (g) Rectal, urethral, or vaginal preparations.
   (h) Medications ordered by the physician or health care professional with prescriptive authority to be given “as needed,” unless the order is written with specific parameters that preclude independent judgment on the part of the unlicensed person, and at the request of a competent patient.
   (i) Medications for which the time of administration, the amount, the strength of dosage, the method of administration, or the reason for administration requires judgment or discretion on the part of the unlicensed person.
(5) Assistance with the self-administration of medication by the unlicensed person as described in this section does not constitute administration as defined in s. 465.003.

(6) The agency may by rule establish procedures and interpret terms as necessary to administer this section.

408.810 Minimum Licensure Requirements. [REPLACED 400.495]

In addition to the licensure requirements specified in this part, authorizing statutes, and applicable rules, each applicant and licensee must comply with the requirements of this section in order to obtain and maintain a license.

(1) An applicant for licensure must comply with the background screening requirements of s. 408.809.

(2) An applicant for licensure must provide a description and explanation of any exclusions, suspensions, or terminations of the applicant from the Medicare, Medicaid, or federal Clinical Laboratory Improvement Amendment (CLIA) programs.

(3) Unless otherwise specified in this part, authorizing statutes, or applicable rules, any information required to be reported to the agency must be submitted within 21 calendar days after the report period or effective date of the information, whichever is earlier, including, but not limited to, any change of:
   (a) Information contained in the most recent application for licensure.
   (b) Required insurance or bonds.

(4) Whenever a licensee discontinues operation of a provider:
   (a) The licensee must inform the agency not less than 30 days prior to the discontinuance of operation and inform clients of such discontinuance as required by authorizing statutes. Immediately upon discontinuance of operation by a provider, the licensee shall surrender the license to the agency and the license shall be canceled.
   (b) The licensee shall remain responsible for retaining and appropriately distributing all records within the timeframes prescribed in authorizing statutes and applicable rules. In addition, the licensee or, in the event of death or dissolution of a licensee, the estate or agent of the licensee shall:
      1. Make arrangements to forward records for each client to one of the following, based upon the client’s choice: the client or the client’s legal representative, the client’s attending physician, or the health care provider where the client currently receives services; or
      2. Cause a notice to be published in the newspaper of greatest general circulation in the county in which the provider was located that advises clients of the discontinuance of the provider operation. The notice must inform clients that they may obtain copies of their records and specify the name, address, and telephone number of the person from whom the copies of records may be obtained. The notice must appear at least once a week for 4 consecutive weeks.

(5)(a) On or before the first day services are provided to a client, a licensee must inform the client and his or her immediate family or representative, if appropriate, of the right to report:
   1. Complaints. The statewide toll-free telephone number for reporting complaints to the agency must be provided to clients in a manner that is clearly legible and must include the words: “To report a complaint regarding the services you receive, please call toll-free 1-888-419-3456

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2. Abusive, neglectful, or exploitative practices. The statewide toll-free telephone number for the central abuse hotline must be provide to clients in a manner that is clearly legible and must include the words: “To report abuse, neglect, or exploitation, please call toll-free 1-800-962-2873.

3. Medicaid fraud. An agency-written description of Medicaid fraud and the statewide toll-free telephone number for the central Medicaid fraud hotline must be provide to clients in a manner that is clearly legible and must include the words: “To report suspected Medicaid fraud, please call toll-free 1-866-966-7226.

The agency shall publish a minimum of a 90-day advance notice of a change in the toll-free telephone numbers.

(b) Each licensee shall establish appropriate policies and procedures for providing such notice to clients.

(6) An applicant must provide the agency with proof of the applicant’s legal right to occupy the property before a license may be issued. Proof may include, but need not be limited to, copies of warranty deeds, lease or rental agreements, contracts for deeds, quitclaim deed, or other such documentation.

(7) If proof of insurance is required by the authorizing statute, that insurance must be in compliance with chapter 624, chapter 626, chapter 627, or chapter 628 and with agency rules.

(8) Upon application for initial licensure or change of ownership licensure, the applicant shall furnish satisfactory proof of the applicant’s financial ability to operate in accordance with the requirements of this part, authorizing statutes, and applicable rules. The agency shall establish standards for this purpose, including information concerning the applicant’s controlling interests. The agency shall also establish documentation requirements, to be completed by each applicant, that show anticipated provider revenues and expenditures, the basis for financing the anticipated cash-flow requirements of the provider, and an applicant’s access to contingency financing. A current certificate of authority, pursuant to chapter 651, may be provided as proof of financial ability to operate. The agency may require a licensee to provide proof of financial ability to operate at any time if there is evidence of financial instability, including, but not limited to, unpaid expenses necessary for the basic operations of the provider.

(9) A controlling interest may not withhold from the agency any evidence of financial instability, including, but not limited to, checks returned due to insufficient funds, delinquent accounts, nonpayment of withholding taxes, unpaid utility expenses, nonpayment for essential services, or adverse court action concerning the financial viability of the provider or any other provider licensed under this part that is under the control of the controlling interest. Any person who violates this subsection commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Each day of continuing violation is a separate offense.

(10) The agency may not issue a license to a health care provider subject to the certificate-of-need provisions in part I of this chapter if the health care provider has not been issued a certificate of need or an exemption. Upon initial licensure of any such provider, the authorization contained in the certificate of need shall be considered fully implemented and merged into the license and shall have no force and effect upon termination of the license for any reason.
There is created in the Department of Legal Affairs an Office of Civil Rights. The office may investigate and initiate actions authorized by chapter 760. In investigating violations of constitutional and statutory rights under chapter 760, the Attorney General may administer oaths and affirmations, subpoena witnesses or matter, and collect evidence.

Self-Employment Tax
What is Self-Employment Tax?
Self-employment tax (SE tax) is a social security and Medicare tax primarily for individuals who work for themselves. It is similar to the social security and Medicare taxes withheld from the pay of most wage earners.

You figure SE tax yourself using Schedule SE (Form 1040). Social security and Medicare taxes of most wage earners are figured by their employers. Also you can deduct half of your SE tax in figuring you adjusted gross income. Wage earners cannot deduct social security and Medicare taxes.

SE tax rate. The self-employment tax rate is 15.3%. The rate consists of two parts: 12.4% for social security (old-age, survivors, and disability insurance) and 2.9% for Medicare (hospital insurance).

Maximum earning subject to SE tax. Only the first $106,800 of your combined wages, tips, and net earnings in 2019 is subject to any combination of the 12.4% social security part of SE tax, social security tax, or railroad retirement (tier 1) tax.

All your combined wages, tips, and net earnings in 2019 are subject to any combination of the 2.9% Medicare part of SE tax, social security tax, or railroad retirement (tier 1) tax.

Fiscal year filer. If you use a tax year other than the calendar year, you must use the tax rate and maximum earnings limit in effect at the beginning of your tax year. Even if the tax rate or maximum earnings limit changes during your tax year, continue to use the same rate and limit throughout your tax year.

Self-employment tax deduction. You can deduct half of your SE tax in figuring your adjusted gross income. This deduction only affects your income tax. It does not affect either your net earnings from self-employment or your SE tax.

How to Pay Self Employment Tax
To pay SE tax, you must have a social security number (SSN) or an individual taxpayer identification number (ITIN). This section explains how to:

Obtain an SSN or ITIN
Pay your SE tax using estimated tax.

Obtaining a Social Security Number. If you never had an SSN, apply for one using Form SS-5, Application for a Social Security Card. You can get this form at any Social Security office or by calling 1-800-772-1213. Download the form from [www.ssa.gov](http://www.ssa.gov) website.

Obtaining an Individual Taxpayer Identification Number. The IRS will issue you an ITIN if you are a nonresident or resident alien and you do not have and are not eligible to get an SSN. To apply for an ITIN, file Form W-7, Application for IRS Individual Taxpayer Identification Number.
Estimated Taxes
Federal income tax is a pay-as-you-go tax. You must pay the tax as you earn or receive income during the year. You generally have to make an estimated tax payment if you expect to owe tax, including SE tax, of $1,000 or more when you file your return. There are two ways to pay as you go: withholding and estimated taxes. If you are a self-employed individual and do not have income tax withheld, you must make estimated tax payments.

Who Must Pay Self-Employment Tax?
You must pay SE tax and file Schedule SE (Form 1040) if either of the following applies.

- Your net earnings from self-employment (excluding church employee income) were $400 or more.
- You had church employee income of $108.28 or more.

Your net earnings from self-employment are based on your earnings subject to SE tax. Most earnings from self-employment are subject to SE tax. Some earnings from employment (certain earnings that are not subject to social security and Medicare taxes) are subject to SE tax. If you have earnings subject to SE tax, use Schedule SE to figure your net earnings from self-employment. Before you figure your net earnings, you generally need to figure your total earnings subject to SE tax.

Note: The SE tax rules apply no matter how old you are and even if you are already receiving social security or Medicare.

Are You Self-Employed?
You are self-employed if any of the following apply to you.

- You carry on a trade or business as a sole proprietor or an independent contractor.
- You are a member of a partnership that carries on a trade or business.
- You are otherwise in business for yourself.

Trade or business. A trade or business is generally an activity carried on for a livelihood or in good faith to make a profit. The facts and circumstances of each case determine whether or not an activity is a trade or business. The regularity of activities and transactions and the production of income are important elements. You do not need to actually make a profit to be in a trade or business as long as you have a profit motive. You do need, however, to make ongoing efforts to further the interests of your business.

Part-time business.
You do not have to carry on regular full-time business activities to be self-employed. Having a part-time business in addition to your regular job or business also may be self-employment.

Example. You are employed full time as an engineer at the local plant. You fix televisions and radios during the weekends. You have your own shop, equipment, and tools. You get your customers from advertising and word-of-mouth. You are self-employed as the owner of a part-time repair shop.

Sole proprietor. You are a sole proprietor if you own an unincorporated business by yourself, in most cases. However, if you are the sole member of a domestic limited liability company (LLC), you are not a sole proprietor if you elect to treat the LLC as a corporation. For more
information on this election and the tax treatment of a foreign LLC, see Form 8832, Entity Classification Election.

Independent contractor.
People such as doctors, dentists, veterinarians, lawyers, accountants, contractors, subcontractors, public stenographers, or auctioneers who are in an independent trade, business, or profession in which they offer their services to the general public are generally independent contractors. However, whether these people are independent contractors or employees depends on the facts in each case. The general rule is that an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done. The earnings of a person who is working as an independent contractor are subject to SE tax.

You are not an independent contractor if you perform services that can be controlled by an employer (what will be done and how it will be done). This applies even if you are given freedom of action. What matters is that the employer has the legal right to control the details of how the services are performed. If an employer-employee relationship exists (regardless of what the relationship is called), you are not an independent contractor and your earnings are generally not subject to SE tax. However, your earnings as an employee may be subject to SE tax under other rules discussed in this section.

NON-DISCRIMINATION POLICY
PALM BEACH NURSING CARE LLC complies with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and Regulations of the U.S. Department of Health and Human Services issued pursuant to the Acts, Title 45 Code of Federal Regulations Part 80, 84, and 91 and the Privacy Rule of the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 in that its activities are characterized by the absence of separation or discrimination by race, sex, national origin in any activity carried on, in, by, or for the organization affecting the care and treatment of patients.

PALM BEACH NURSING CARE LLC does not exclude, deny benefits to, or otherwise discriminate against any person on the ground of race, color, or national origin, or on the basis of disability or age in participation in, or receipt of the services and benefits of any of its programs and activities or in employment therein, whether provided directly by this organization or through an independent contractor.

All referred patients are provided services without discrimination and no inquiries are made requiring race, color, or national origin prior to the contact for services.

Information regarding the cost and availability of services is uniformly made available to all without regard to race, color, sex, or national origin.

In case of questions concerning this policy or in the event of a desire to file a complaint alleging violations of the policy statement, please contact Ivis Janet Avendano the Administrator at PALM BEACH NURSING CARE LLC at (561)338-1878.
PERSONAL HEALTH INFORMATION PLEDGE OF CONFIDENTIALITY

I, ______________________ the undersigned, have read and understood PALM BEACH NURSING CARE LLC (hereinafter PALM BEACH NURSING CARE LLC) policy on confidentiality of personal health information (PHI) as described in the Confidentiality Policy which is in accordance with relevant state and federal legislation.

I also acknowledge that I am aware of and understand the Policies regarding the security of personal health information including the policies relating to the use, collection, disclosure, storage and destruction of personal health information. In consideration of my employment or independent contractor status with PALM BEACH NURSING CARE LLC and as an integral part of the terms and conditions of my employment or contractor status, I hereby agree, pledge and undertake that I will not at any time, during my employment or association with PALM BEACH NURSING CARE LLC or after my employment or association ends, access or use personal health information, or reveal or disclose to any persons within or outside, any personal health information except as may be required in the course of my duties and responsibilities and in accordance with applicable Legislation, and policies governing proper release of information.

I understand that my obligations outlined above will continue after my employment/contract/association/appointment with PALM BEACH NURSING CARE LLC ends.

I further understand that my obligations concerning the protection of the confidentiality of PHI relate to all personal health information whether I acquired the information through my employment or contract or association or appointment with PALM BEACH NURSING CARE LLC or with any of the entities, which have an association with this organization. I also understand that unauthorized use or disclosure of such information will result in a disciplinary action up to and including termination of employment or contract or association or appointment, the imposition of fines pursuant to relevant state and federal legislation, and a report to my professional regulatory body.

____________________________________________________________________________
Signature                                                                                                                Date
____________________________________________________________________________
Witness                                                                                                                      Date