

## CHAPTER 2014-142

### Committee Substitute for Committee Substitute for House Bill No. 1179

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

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within 120 days after the date of the agency's receipt of the application for licensure or the application shall be withdrawn from further consideration.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 releases of, and the agency receives the report of, the accrediting organization.

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

400.506 Licensure of nurse registries; requirements; penalties.—

(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 has presented credentials demonstrating that he or she 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.

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

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

(19) It is not the obligation of a nurse registry to monitor, supervise, manage, or train a registered nurse, licensed practical nurse, certified nursing assistant, companion or homemaker, or home health aide referred for contract under this chapter. In the event of a violation of this chapter or a violation of any other law of this state by a referred registered nurse, licensed practical nurse, certified nursing assistant, companion or homemaker, or home health aide, or a deficiency in credentials which comes to the attention of the nurse registry, the nurse registry shall advise the patient to terminate the referred person's contract, providing the reason for the suggested termination; cease referring the person to other patients or facilities; and, if practice violations are involved, notify the licensing board. This section

does not affect or negate any other obligations imposed on a nurse registry under chapter 408.

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

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

Approved by the Governor June 13, 2014.

Filed in Office Secretary of State June 13, 2014.