

Nurse Registry Information

- Application Process
 - 30-day notification by AHCA of omissions or errors
 - 21 days to respond.
 - Approval of license within 60 days pending survey
 - Application Forms
 - <http://ahca.myflorida.com/HQAlicensureforms>
 - Application Checklist
 - AHCA Form 3110-7004 – Licensing Application
 - Licensing Addendum
 - Proof of financial ability to operate.
 - Proof of funds required based on financial schedules
 - <https://www.youtube.com/watch?v=HmFxlV1Bj8s>
 - Company Data
 - NPI number
 - EIN
 - Physical address of office
 - Management personnel data
 - Administrator
 - Alternate Administrator
 - Registered Nurse
 - Chief Financial Officer
 - Services Allowed by Nurse Registry
 - RN, LPN, certified nursing assistants, home health aides, homemakers, companions
 - Types of facilities served for staffing
 - ALFs, Hospice, Nursing Home, Adult Day Care, Hospital, Home Health Agency, Private home
 - Determine geographic location
 - Satellite offices allowable
 - Notification of satellite to AHCA prior to opening
 - Requires zoning approval
 - Proof of right to occupy
 - Supporting Documents
 - Proof of right to occupy (lease, deed)
 - Zoning Approval
 - Attestation of Compliance with background screening requirements
 - Background screening for administrator, alternate administrator, nurse and financial officer
 - Licensee or authorized representative
 - Proof of submission of CEMP or approval letter
 - Application Fee - \$2,000
- CEMP
 - Each registry is required to prepare and maintain a written emergency plan
 - Comprehensive Emergency Management Plan for Nurse Registries, AHCA Form 3110-1017 May 2015
 - https://www.ahca.myflorida.com/MCHQ/Emergency_Activities/index.shtml
 - Review annually

- Report name and personal phone numbers or administrative staff coordination emergency response to county emergency management office and county health department
 - Documentation when state of emergency declared of contact with patients needing ongoing care and confirm plan, to include ALFs and Adult family care homes patients to confirm their plans.
- Survey by AHCA
 - <https://slideplayer.com/slide/3805326/>
 - Initial survey is announced, follow up surveys are unannounced
- Required Onsite Information
 - Nurse registry regulations on site
 - Complaint process
 - Ability to pull prioritized list of clients registered for special needs shelters
 - Proof special needs registration was sent to emergency management office
 - Copy of list of medications and equipment needs for each patient
 - License Posted
 - Registry Advertisement – requires license number, including websites
 - \$100 fine first time, \$500 additional times
- Administrator Requirements
 - Licensed physician, APRN, RN or individual with training/experience in health service administration and at least 1 year of supervisory experience in health care
 - Knowledgeable with AHCA rules of nurse registry
 - Written designation of alternate administrator that meets administrator requirements
 - Level 2 background screening prior to appointment
 - May manage up to 5 registries with identical controlling interests and are located in one agency geographic service area or an immediately contiguous county
- Office Staffing Requirements
 - Posted hours of operation
 - Agency must be staffed for 8 consecutive hours between 7am-6pm with at least a clerical person
 - Administrator or alternate must be available to the public for 8 consecutive hours between 7am and 6pm in person or phone
 - Surveyor to have access to client records within 2 hours
- Required Policies
 - Availability of nurse
 - For skilled care vs non-skilled care
 - Grievance Reporting and Resolution
 - Providing notice to patients for abuse, neglect, exploitation, complaints and Medicaid Fraud
 - Service Termination
 - Selection, documentation, screening, and verification of credentials for contractors
 - Emergency Management Policy
 - Procedure for Informing Patients of Special Needs Registry
 - Acceptance of Patients or Clients
 - Administration of Drugs and Biologicals
 - Office Hours
 - Designation of Alternate Administrator
 - Patient Rights
 - Affirmative Action and Equal Opportunity
 - Patient information packet
 - Plan of Treatment
 - Clinical Record Contents
 - Assistance with Self-Administration of Medication

- Job Descriptions
- Contractor Notifications
- Health Screening
- Background Screening
- Coordination of Services for all disciplines
- Supplemental Staffing
- Contractor Registration Folder Contents
- RN Requirements
 - May be employee or Contractor
 - Responsible to maintain plan of treatment, amendments to the plan, additional order and clinical notes
 - Required medication review on clients receiving assistance with self-administered medications, to determine type of assistance to be provided
 - If patient refuses visit, a written list with dosage, frequency and route will be provided to be reviewed by the nurse
 - Administration of Drugs and Biologicals
 - Order dated and signed by MD, APRN, or PA within 30 days
- Aide Allowable Services
 - Limited to allowable services in section 400.506(6)(b)
 - Must observe appearance and gross behavior changes in the patient and report changes to the patient's health care surrogate or other person designated by the patient and the nurse registry or to the responsible facility employee if staffing in a facility
- Homemaker/Companion Allowable Services
 - Allowed to perform only specific duties as part of 59A-18.009
 - Must report any unusual incidents of changes in the patient's or client's behavior to the person designated by the client
- Contractor Registration Requirements
 - Application
 - Name, address, DOB, SSN, education background, employment history, number and date of license/certification
 - Driver's License or photo ID
 - Free of Communicable Diseases Statement within last 6 months
 - TB test is no longer required
 - MD, DO, ARNP, PA or RN supervised by physician or acting under a protocol signed by a physician
 - Orientation Checklist
 - Evidence of HIV training
 - Discipline Specific
 - Aides
 - Completion of training course for HHA or CNA certificate from a public vocational technical school or licensed non-public career education school
 - LPNs and RNs licensed in Florida or another state may work as home health aides, or have completed the training program and are not yet licensed
 - Proof of at least 40 hours of home health aide training
 - CNA certification in another state must take written examination
 - CPR approved by American Heart Association or American Red Cross
 - Assistance with medication training
 - 2-hour training per 59A-8.009(5) F.A.C for home health agency if aide previously worked for agency
 - Training certificate per 429.52(6) F.S assisted living facility staff

- Certificate for at least 2 hours of training from a career education school licensed by the Department of Education, Commission for Independent Education
 - 2-hour training by a provider approved by the Florida Board of Nursing, Department of Health
- Homemaker/Companion
 - Evident of training per 59A-18.009(1)
- Copy of current license or certification
- Verification of license or certification upon hire and annually
- Contract with Registry
- Level II Background screening
 - Attestation of Compliance with Background Screening Requirements Form
 - http://ahca.myflorida.com/MCHQ/Central_Services/Background_Screening/Regulations_Forms.shtml
 - Required every 5 years
- Proof of required rule dissemination (paper, email or electronic)
 - Nurses
 - Rule 59A-18.005, F.A.C., Registration Policies.
 - Rule 59A-18.007, F.A.C., Registered Nurses and Licensed Practical Nurses.
 - Rule 59A-18.011, F.A.C., Medical Plan of Treatment.
 - Rule 59A-18.012, F.A.C., Clinical Records.
 - Rule 59A-18.013, F.A.C., Administration of Biologicals.
 - Sections 400.506, 408.809, 400.484, 400.462, 400.488 and 408.810(5), F.S., with the telephone numbers referred to in the law.
 - Rule 59A-18.018, F.A.C., Emergency Management Plan
 - Aides
 - Rule 59A-18.005, F.A.C., Registration Policies.
 - Rule 59A-18.0081, F.A.C., Certified Nursing Assistant and Home Health Aide.
 - Sections 400.506, 408.809, 400.484, 400.462, 400.488 and 408.810(5), F.S., with the telephone numbers referred to in the law.
 - Rule 59A-18.018, F.A.C., Emergency Management Plan
 - Homemakers and Companions
 - Rule 59A-18.009, F.A.C., Homemakers or Companions.
 - Sections 400.506, 408.809, 400.484, 400.462 and 408.810(5), F.S., with the telephone numbers referred to in the law.
 - Rule 59A-18.018, F.A.C., Emergency Management Plans.
 - Rule 59A-18.005, F.A.C., Registration Policies.
- Proof of instructions for responsibility for payment of self-employment taxes
- Proof of contractor notification of registry's commitment to compliance with civil rights requirements
- List of referred clients name, address and fee received
- List of any complaints
- Maintain for 3 years after last client related entry
- Required Patient Information Dissemination
 - Telephone numbers to call if a replacement caregiver is needed
 - Local emergency numbers
 - Notification that staff are all independent contractors, agency is does not monitor, supervise, manage or train the caregiver
 - RNs are available at an addition cost to visit when patient has C.N.A or H.H.A.
 - Notification that nurse that communications with MD should update plan of treatment

- Patient Rights per 59A-18.011 (7) F.A.C.
- Complaint Process and agencies to report to with phone numbers: Theft to law enforcement, abuse and neglect to central abuse hotline, Medicaid fraud, nurse/aide complaints to Department of health and how to report them, other complaints to AHCA
- Emergency management plan for Nurse Registries Appendix B
 - Copy of list of medication and equipment needs that match list at the registry
- Required Patient Records
 - Identification sheet
 - Release of information
 - Emergency management plan and special needs registration if required – reviewed annually with patient/caregiver
 - Documentation of coordination with case manager for clients under Community Care for the Elderly or Medicaid Waiver programs
 - If registered with special needs shelter, proof of providing patient with: List of medications, allergies, name of physician with phone number, name and phone number of patient's pharmacy, and diagnoses if patient permits.
 - Plan of Treatment for Skilled Services
 - Signed within 30 days form initiation of services and reviewed every 2 months
 - May be signed by physician, physician assistant, or APRN
 - Includes information stated per 59A-18.011 F.A.C
 - Any nursing assessments
 - Clinical records
 - Medication administration
 - Requires orders with specific protocol signed within 30 days
 - Patient/caregiver instructions
 - Reports to physician
 - Additional orders signed within 30 days
 - Consent for aide to provide assistance with self-administered meds if applicable
 - Review of Medications by RN or LPN
 - Documentation each time patient receives assistance with medication administration
 - Termination summary with all elements from 59A-18.012 (6) F.A.C.
 - Caregiver notification of date of termination and reason documented
 - Maintain records for 5 years following termination of services
- Supplemental Staffing for Health Care Facilities
 - Temporary Staffing
 - Written Contract with facility
 - All nurse registries may provide staffing services
 - Independent contractor must carry professional license/certification at all times while working at facility
 - Complaint process
 - Proof of submission of name of person orienting independent contractor for facility
 - Supplemental Staffing Contractor File
 - Recording and follow up of complaints
 - Documentation of notification of facilities if license/certification is restricted
 - Name and address of facility contractor staffed with amount of fee charged, title of position and amount of fee received by registry
- Assisted Living Facilities
 - Require fair market value remuneration for all services provided
 - Maintain contracts with ALFs for 5 years
 - Must provide to surveyor if requested or \$5,000 fine

- Fines if care is provided to ALFs without charge
 - \$5,000 fine for providing staff and services not at fair market value
 - \$15,000 fine for providing free staff in return for referrals
 - \$5,000 fine for remuneration for referrals
- Contract Staff
 - Correct classification for contract staff is still relevant under Federal Regulations
 - Economic Realities Test used to determine contractor status
 - Nature and degree of employers control over the contractor's work. Contractors are required to have full control over their work.
 - Registries are not allowed to control any function of the contractor. For example, scheduling, requests to report missed visits, requests to complete incident reports, and registry notification of patient's status.
 - Scheduling with patients is the responsibility of the contractor as is providing back up staffing in case of their inability to visit the patient
 - Registry is not allowed to dictate dates or times contractor works
 - This could be a risk since patients have to approve of staff prior to care
 - Contractor should not be required to provide written or oral reports
 - Contractor should have full autonomy in how they manage the patient they have a contract with
 - Contractor's opportunity for profit or loss depends on their managerial skills
 - Registry must allow the patient to select their contractor and not just schedule staff to a patient
 - Rates set by the agency could be seen as a violation for this category
 - Contractor's services require a special skill
 - Skilled care meets the qualifications for this element, as does home health aide and/or CNA as they require training and/or certification. Companion care and sitter services may not qualify as there is minimal specialized skills for those services.
 - The permanency and duration of working relationship. The longer the relationship, the more contractor status is questioned.
 - Long term contractors could be noted as a violation for this category, especially if working with the same client for long periods of time
 - The extent in which services are an integral part of the registry's business. For a contractor, their services are not supposed to be an integral part of the business.
 - Providing direct care services is the main reason for a registry making this element difficult to prove.
 - The contractor's investment in equipment or materials and employment of other workers
 - Registry is not allowed to provide car stock to contractors or even PPE directly to the contractor. Only allowed to provide PPE directly to the patient.
 - Contract agencies with multiple staff meet this requirement since they employ multiple workers.
 - Challenges related to Contractors
 - Nurse Registry regulations deeming all workers as contractors does not save the agency from following federal law with Fair Labor Standards Act and overtime regulations
 - Several nurse registries have been found in violation of federal wage and hour laws
 - FLSA allows looking back 2 years – 3 years from the date of complaint for damages
 - Registry may be required to pay back taxes, along with fines and penalties if they contractor is seen as being misclassified

- Potential risks for violating IRS Payroll taxes, not providing FMLA leave, unemployment compensation and worker's compensation even though the Nurse Registry requires all direct care staff to be contractors.
- Registry is not required to carry liability or malpractice insurance, so care provided by the agency is not covered independent of the contractors
 - Contractors are not covered by the agency for patient injury, property damages or criminal acts such as theft
 - Registry must ensure contractors maintain insurance coverage
 - If a patient issue arises, agency is at the mercy of the contractor to settle the issue
 - Registry reputation can be affected if issues are not resolved to the patient's satisfaction
 - Registry should have it the contract that the contractor must repay registry for any actions that harmed the business
- Registry is not required to carry worker's compensation insurance, nor is the contractor
 - If a contractor is harmed at a patient's home, the patient may be held responsible
 - If a contractor is harmed at a patient's home, there is potential for a liability lawsuit with the registry
- New nurse delegation regulations do not apply to Registries
- Staffing
 - Independent contractors are self-employed having no long-term commitment to the registry
 - Risk losing contractors to other agencies/registries for any reason along with the patient since they are not allowed to have non-compete implications
- Marketing
 - Limits potential clients
 - Some patients/clients prefer a home health agency vs a registry since the staff for an agency is covered by an agency's liability and malpractice insurance.
 - Limits potential payers
 - Some insurance payers will not credential nurse registries and only allow home health agencies as providers

Managing Contractors

- Registry only acts as intermediary between client and patient and has no management authority regarding staff
- Contractor must supply their own supplies and tools
 - Registry is only allowed to provide supplies that are billed to the patient
 - Registry cannot provide phones or tablets
 - Registry is at the mercy of the contractor to provide all required equipment for the patient
- Training
 - This prevents any training of staff by the registry. Contractors must come trained
 - If a new skill is required for the patient and the caregiver is not experienced in it, the registry cannot educate the contractor on the new skill
- Non-compete agreements are not allowed
 - A contractor is free to work for other agencies/registries as they choose
- Disciplinary Actions
 - Unable to formally write up contractors
 - If any issue arises, the registry can only advise the patient to terminate the referred person's contract and cease referring the contractor to other patients or facilities
- Registry is restricted from monitoring, supervising, managing, or training staff

- Registry cannot control how the contractor completes their job
 - Prevents registry from assessing the care provided by contractors
 - Prevents registry from directing contractor to complete a certain schedule set up by the registry
 - Contractors are free to assign work to other contractors within their organization without knowledge by the registry
- Registry is not legally allowed to guarantee any set amount of work
 - Payroll practices should require the contractor to invoice the registry instead of agency managing payroll based on visits provide
 - Contractors should not request holidays or time off as part of a formal process like a direct employee. They are required to find a replacement if they are unable to fulfil their contracted obligation to the patient