|  |
| --- |
| The 2018 Florida Statutes |
|  |
| |  |  |  | | --- | --- | --- | | [**Title XXIX**](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Index&Title_Request=XXIX#TitleXXIX) PUBLIC HEALTH | [**Chapter 408**](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0400-0499/0408/0408ContentsIndex.html) HEALTH CARE ADMINISTRATION | [**View Entire Chapter**](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0400-0499/0408/0408.html) | |

408.810 Minimum licensure requirements.—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](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=408.810&URL=0400-0499/0408/Sections/0408.809.html).

(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 (phone number).”

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

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 provided to clients in a manner that is clearly legible and must include the words: “To report suspected Medicaid fraud, please call toll-free (phone number).”

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 deeds, 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. An applicant applying for change of ownership licensure is exempt from furnishing proof of financial ability to operate if the provider has been licensed for at least 5 years, and:

(a) The ownership change is a result of a corporate reorganization under which the controlling interest is unchanged and the applicant submits organizational charts that represent the current and proposed structure of the reorganized corporation; or

(b) The ownership change is due solely to the death of a person holding a controlling interest, and the surviving controlling interests continue to hold at least 51 percent of ownership after the change of ownership.

(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. A controlling interest shall notify the agency within 10 days after a court action to initiate bankruptcy, foreclosure, or eviction proceedings concerning the provider in which the controlling interest is a petitioner or defendant. Any person who violates this subsection commits a misdemeanor of the second degree, punishable as provided in s. [775.082](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=408.810&URL=0700-0799/0775/Sections/0775.082.html) or s. [775.083](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=408.810&URL=0700-0799/0775/Sections/0775.083.html). 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.

(11) The agency may adopt rules that govern the circumstances under which a controlling interest, an administrator, an employee, or a contractor, or a representative thereof, who is not a relative of the client may act as an agent of the client in authorizing consent for medical treatment, assignment of benefits, and release of information. Such rules may include requirements related to disclosure, bonding, restrictions, and client protections.

(12) The licensee shall ensure that no person holds any ownership interest, either directly or indirectly, regardless of ownership structure, who:

(a) Has a disqualifying offense pursuant to s. [408.809](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=408.810&URL=0400-0499/0408/Sections/0408.809.html); or

(b) Holds or has held any ownership interest, either directly or indirectly, regardless of ownership structure, in a provider that had a license revoked or an application denied pursuant to s. [408.815](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=408.810&URL=0400-0499/0408/Sections/0408.815.html).

(13) If the licensee is a publicly traded corporation or is wholly owned, directly or indirectly, by a publicly traded corporation, subsection (12) does not apply to those persons whose sole relationship with the corporation is as a shareholder of publicly traded shares. As used in this subsection, a “publicly traded corporation” is a corporation that issues securities traded on an exchange registered with the United States Securities and Exchange Commission as a national securities exchange.

History.—s. 5, ch. 2006-192; s. 9, ch. 2009-223; s. 27, ch. 2012-160; s. 72, ch. 2018-24.