HCAF
Home Care Association of Florida
RESOURCES • EDUCATION • ADVOCACY

October 9, 2025

Kelli Fillyaw
HQA Rules Coordinator
Division of Health Quality Assurance
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop 28A
Tallahassee, FL 32308

Re: Rule 59A-8.0099, Minimum Training Requirements for Home Health Aides for Medically Fragile Children

Dear Ms. Fillyaw,

On behalf of the Home Care Association of Florida (HCAF), the statewide trade association representing more than 2,800 licensed home health agencies, we appreciate the opportunity to comment on the proposed amendments to Rule 59A-8.0099, Minimum Training Requirements for Home Health Aides for Medically Fragile Children (commonly referred to as the Family Home Health Aide (FHHA) program). HCAF serves as the unified voice of Florida's home care provider community and works collaboratively with the Agency for Health Care Administration (AHCA) to promote quality, access, and accountability in home health services.

The FHHA program was established by House Bill 391 (2023) and refined by Senate Bill 1156 (2025) to enhance care continuity for medically fragile children while supporting family caregivers through structured training and oversight. HCAF supports AHCA's efforts to align the rule with these statutory updates and to strengthen training standards that safeguard patient well-being. However, several provisions present operational challenges or require clarification to ensure effective, consistent implementation across licensed home health agencies. Our specific comments and recommendations follow.

Clarification of Required Training Hours and Alignment With Statutory Authority

- **Ambiguity between 40-hour and 75-hour standards:** Rule 59A-8.0095, Florida Administrative Code (F.A.C.), references both a 40-hour and a 75-hour home health aide training requirement depending on Medicare certification status. The proposed rule references 40 hours of theoretical instruction under subsection (3)(a), but it is unclear whether this replaces or supplements the 75-hour standard applicable to aides in Medicare-certified agencies. AHCA should clarify whether FHHAs are subject to the 40-hour standard, the 75-hour standard, or an FHHA-specific standard.
- **Conflict with substitution language:** Section 400.497(1)(d), Florida Statutes (F.S.), allows passage of a competency test to substitute for the 40-hour training. The draft rule expressly prohibits such substitution ("shall not be administered in lieu of…training"). We recommend reconciling the rule with statute to avoid inconsistency and provider confusion.

Coordination With Private Duty Nursing (PDN) When Families Request to Decline PDN Staffing

HCAF increasingly hears from families who request no private duty nurse or outside caregiver in the home and wish to provide all care themselves under the FHHA program — often citing privacy and household disruption concerns. While family preferences deserve respect, FHHA was designed to supplement — not replace — skilled nursing based on PDN eligibility for complex medical needs.

We request clear guidance in rule or policy on:

- Whether proceeding without any assigned PDN is permissible under current Medicaid policy or the proposed rule, and under what circumstances.
- Required care-plan safeguards (e.g., registered nurse (RN) assessment frequency, escalation criteria) when a family formally declines PDN.
- Required documentation of informed declination, including acknowledgment of risks, re-offer intervals, and criteria for reinstating PDN.
- Expectations for clinical oversight to ensure scope of care, program intent, and patient safety are preserved.

Format and Delivery of Training

HCAF requests confirmation that the 40 hours of theoretical instruction may be delivered electronically, provided the curriculum is developed, overseen, and certified by a qualified RN who meets the rule's experience requirements. A hybrid model — combining online didactic instruction with in-person skills validation — would maintain rigor while improving access for families who face geographic or scheduling barriers.

Medication Administration and Scope of RN Delegation

Section 400.489, F.S., authorizes aides to administer certain medications if delegated by an RN after completing required training (six-hour course and annual two-hour in-service). This provision does not explicitly authorize administration of controlled substances or sterile procedures. The draft rule appears to expand delegation to include certain Schedule II–IV rescue medications (e.g., rectal seizure medications). Because RN delegation under Chapter 400, F.S., does not extend to sterile procedures or controlled substances, AHCA should explicitly exclude these categories from delegation or seek statutory clarification to prevent legal and clinical conflicts.

Federal Certification References

Citations to 42 Code of Federal Regulations (C.F.R.) §§ 484.151–484.154 and § 484.80 in section 400.4765, F.S., may imply that agencies must meet Medicare Conditions of Participation (CoPs), effectively requiring federal certification. HCAF requests clarification that these references are intended as standards of practice, not a mandate for Medicare certification, so as not to restrict participation.

Additionally, while agencies are currently adhering to applicable CoPs under a federal waiver, AHCA should clarify whether such adherence will continue to be required after CMS approval of the new waiver for the FHHA program. The rule should state that once the waiver is approved, agencies are not required to maintain CoP compliance beyond what the waiver expressly requires.

Appropriateness of Delegated Tasks in the 20-Hour Skills Section

Certain items listed in the 20-hour skills section — e.g., tracheostomy care (subsection (3)(b)2) and observation skills that imply assessment (subsection (3)(b)16) — involve clinical judgment beyond permissible RN delegation under section 464.0156, F.S. These procedures require direct nursing assessment and supervision. To preserve safety and statutory compliance, we recommend limiting tasks to those explicitly authorized by law and consistent with the program's intent.

Certain tasks identified in the 20-hour skills training section of the draft rule involve clinical procedures and judgments that exceed what is permissible under RN delegation in section 464.0156, F.S. Specifically, subsection (3)(b)9 authorizes urinary catheter care "including catheter position, hydration, hygiene, complications, emptying the bag, changing the catheter bag, and removing and inserting a Foley catheter." The insertion of a Foley catheter is a sterile procedure and is not permissible under RN delegation.

Similarly, other procedures listed — including tracheostomy care (subsection (3)(b)2) and observation skills that imply clinical assessment (subsection (3)(b)16) — also fall outside the legal scope of delegation. These types of tasks require

direct nursing assessment and supervision, not delegation to home health aides.

To ensure patient safety and compliance with statutory delegation limits, we recommend that AHCA revise the rule to:

- Remove Foley catheter insertion and other sterile procedures from the list of tasks permitted under delegated care.
- Remove tracheostomy care from the skills section, as this procedure requires direct nursing assessment and supervision and cannot be delegated to home health aides under Florida law.
- Limit the skill set to tasks explicitly authorized under Florida law for delegation to home health aides.
- Ensure alignment with section 464.0156, F.S., and section 400.489, F.S., to avoid legal and clinical conflicts.

Incident Reporting Clarification

Subsection (7) requires electronic submission of adverse incident reports for events "occurring under the care of a home health aide for medically fragile children." To avoid duplication or misinterpretation, AHCA should clarify whether reporting applies only during scheduled, reimbursable FHHA hours provided on behalf of the agency, or also when:

- The aide is acting as a parent/family member outside reimbursable FHHA hours; or
- The patient is receiving PDN services from an RN or licensed practical nurse (LPN).

We recommend a reporting mechanism that distinguishes the care context (FHHA services, PDN services, or non-reimbursable family care) and the time of occurrence, to ensure accurate oversight and to avoid redundant or inappropriate reporting obligations.

Conclusion

We appreciate AHCA's ongoing collaboration and welcome the opportunity to contribute to any subsequent workshops or advisory discussions. HCAF stands ready to support the finalization of the proposed rule and to serve as a resource throughout the process. Please do not hesitate to contact me at (850) 222-8967 or dbellville@homecarefla.org with any questions or to further discuss these recommendations.

Respecfully submitted,

Denise Bellville

Denise Bellville, RN
Executive Director