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ARKANSAS
STATE BOARD OF HEALTH

**RULES ~~AND REGULATIONS~~ FOR
HOME HEALTH AGENCIES IN ARKANSAS**



Promulgated under the Authority of:

Revision effective date: **January 1, 2020**

ARKANSAS DEPARTMENT OF HEALTH
HEALTH FACILITY SERVICES

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Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

090419

Table of Contents

SECTION 1. PREFACE

SECTION 2. AUTHORITY

SECTION 3. PURPOSE

SECTION 4. DEFINITIONS

SECTION 5. ~~UNREGULATED~~ AGENCY LOCATION

SECTION 6. EXEMPTIONS

SECTION 7. APPLICATION FOR LICENSE

SECTION 8. INSPECTIONS

SECTION 9. DENIAL, SUSPENSION, REVOCATION OF LICENSE

SECTION 10. ~~BRANCH OFFICES~~ TRAINING

SECTION 11. GENERAL REQUIREMENTS

SECTION 12. STANDARDS FOR SKILLED CARE SERVICES

SECTION 13. STANDARDS FOR EXTENDED CARE SERVICES

SECTION 14. STANDARDS FOR PERSONAL CARE SERVICES

SECTION 15. CONDITIONAL EMERGENCY PERMITS

SECTION 16. SEVERABILITY

TABLES

CERTIFICATION

SECTION 1. PREFACE

These rules ~~and regulations~~ have been prepared for the purpose of establishing a criterion for minimum standards for the licensure of Home Health Agencies in Arkansas that is consistent with current trends in patient care practices. By necessity they are of a regulatory nature but are considered to be practical minimal design and operational standards for these facilities. These standards are not static and are subject to periodic revisions in the future as new knowledge and changes in patient care trends become apparent. However, it is expected that facilities will exceed these minimum requirements and that they will not be dependent upon future revisions in these standards as a necessary prerequisite for improved services. Each Home Health Agency has a strong moral responsibility for providing optimum patient care and treatment for the patients it serves.

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Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

061319

SECTION 2. AUTHORITY

The following Rules ~~and Regulations~~ for Home Health Agencies in Arkansas are duly adopted and promulgated by the Arkansas State Board of Health pursuant to the authority expressly conferred by the laws of the State of Arkansas in Ark. Code Ann. § 20-10-801 et. seq.

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SECTION 3. PURPOSE

In accordance with Ark. Code Ann. § 20-10-801 et. seq., rules, ~~regulations~~ and minimum standards for home health programs operating in the State of Arkansas are hereby established. These rules will ensure high quality professional care for patients in their home by providing for the safe, appropriate care of all admitted to a home health program regardless of setting and shall apply to both new and existing agencies.

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SECTION 4. DEFINITIONS

The following word and terms, when used in these sections, shall have the stated meanings, unless the context clearly indicates otherwise:

- A. **Administrator**-A person who is an agency employee and is a physician, registered nurse, or an individual with at least one year of supervisory or administrative experience in home health care or in related health provider programs.
- ~~B. **Assistance with Medication**-Ancillary aid needed by a patient to self-administer medication, such as reminding a patient to take a medication at the prescribed time, opening and closing a medication container, and returning a medication to the proper storage area. Such ancillary aid shall not include administration of any medication by injection, inhalation, or any other means, calculation of a patient's medication dosage, or altering the form of the medication by crushing, dissolving, or any other method.~~
- B. **Aide Assignment Sheet/Aide Service Plan** – written assignments developed and supervised by a qualified supervisor for the tasks to be completed by the aide.
- C. **Branch Office**-A location or site from which a Medicare certified home health agency provides services within ~~a the contiguous counties of the primary agency POA portion of the total geographic area served by the primary agency.~~ The branch office is part of the primary agency and is located sufficiently close ~~(within a 50 mile radius)~~ to share administrative supervision and services in a manner that renders it unnecessary to obtain a separate license as a home health agency. A branch office shall have at least one registered nurse assigned to that office on a full time basis.
- D. **Certified Agency**-A home health agency which holds a letter of approval signed by an official of the Department of Health and Human Services. The agency must be currently in compliance with the Conditions of Participation in the Social Security Act, Title XVIII.
- ~~D.E. **Clinical Manager** – Licensed physician, physical therapist, speech language pathologist, occupational therapist, audiologist, social worker or registered nurse.~~
- E.F. **Clinical Note**-A dated, written or electronic and signed notation by agency personnel of a contact with a patient including a description of signs and symptoms, treatment and/or medication given, the patient's response, other health services provided, and any changes in physical and/or emotional condition.
- F.G. **Clinical Record**-An accurate account of services provided for each patient and maintained by the agency. ~~in accordance with accepted medical standards.~~

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

090519

~~G.H.~~ **Contractor**-An entity or individual providing services for the agency who does not meet the definition of employee.

~~H.I.~~ **Coordinating**-Bringing needed services into a common action, movement or condition of the health of the patient.

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Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

090519

~~I.J.~~ **Department**-The Arkansas Department of Health, Health Facility Services.

~~J.K.~~ **Discharge Summary**-A recapitulation of all services provided by the home health agency before discharge of a patient.

~~K.L.~~ **Employee**-Any individual for whom the agency is required to issue a form W-2.

~~L.~~ **Geographic Area**-~~The land area, for which the agency shall be licensed, consisting of not more than a 50 mile radius surrounding the home health agency's primary or subunit location.~~

M. **Health**-The condition of being sound in body, mind and spirit, especially freedom from physical disease or pain.

N. **Health Assessment**-A determination of a patient's physical and mental status performed by medical professionals.

O. **Home Health Agency**-Any person, partnership, association, corporation, or other organization, whether public or private, proprietary, or non-profit, that provides a home health service for pay or other consideration in a patient's residence.

P. **Home Health Aide** ~~/Personal Care Aide~~ A person who provides ~~personal care/personal home health aide~~ services for a person in the home under the supervision of a registered nurse.

Q. **Home Health Services**-The providing or coordinating of acute, restorative, rehabilitative, maintenance, preventive, or health promotion services through professional nursing or by other therapeutic services such as physical therapy, speech therapy, occupational therapy, medical social services, home health aide or personal services in a client's residence.

~~R.~~ **Licensed Occupational Therapy Assistant** ~~A person who is currently licensed under the laws of Arkansas to use the title, Licensed Occupational Therapy Assistant.~~

~~S.~~ **Licensed Physical Therapy Assistant** ~~A person who is currently licensed under the laws of Arkansas to use the title, Licensed Physical Therapy Assistant.~~

~~T.~~ **Licensed Practical Nurse** ~~A person who is currently licensed under the laws of Arkansas to use the title, Licensed Practical Nurse.~~

~~U.R.~~ **Licensed Practitioner** – An individual permitted by law and by the Home Health Agency to prescribe care.

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

090519

~~V.S.~~ **Maintenance**-To keep in an existing state.

~~W.~~ **Medical Social Worker**-A person who is currently licensed under the laws of Arkansas as a social worker and who has a Master's Degree from a school accredited by the Council on Social Work Education and has one year of social work experience in a health care setting.

~~X.~~ **Occupational Therapist**-A person who is currently licensed under the laws of Arkansas to use the title, Occupational Therapist Registered.

~~Y.T.~~ **Parent Agency**-The Medicare certified agency physically located within the state that develops and maintains administrative control of ~~subunits and/or~~ branches.

~~Z.U.~~ **Patient Care Conference**-A documented conference among the home health agency staff or contractors providing care to a patient to evaluate patient care needs and the delivery of service.

AA. **Personal Care**-Medically prescribed health related assistance in activities of daily living, hygiene and grooming ~~for the sick or debilitated~~.

BB. Personal Care Aide – A person who provides personal care services for a person in their home.

~~BB.~~ **Physical Therapist**-A person who is currently licensed under the laws of Arkansas to use the title, Registered Physical Therapist.

CC. **Physician**-A person who is currently licensed under the Arkansas Medical Practices Act.

DD. **Place of Business**-Any office of a home health agency that maintains home health service patient records or directs home health services. ~~This shall include a suboffice, a ranch office, or any other subsidiary location.~~

EE. **Plan of Care**-A written plan which specifies scope, frequency and duration of services that is signed ~~by a physician podiatrist or licensed practitioner~~ by a qualified practitioner.

~~FF.~~ **Podiatric Medicine**-The diagnosis and medical, mechanical, and surgical treatment of ailments of the human foot.

~~GG.~~ **Podiatrist**-A person currently licensed by the Board of Podiatric Medicine to use the title, Podiatrist.

~~HHFF.~~ **Preventive**-To keep from happening or existing.

~~II.~~ **Primary Agency**-The agency physically located within the state responsible for

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

090519

~~the service rendered to patients and for implementation of the plan of care.~~

JJ. **Psychiatric Nurse**—A registered nurse who is currently licensed under the laws

DRAFT

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

090519

of Arkansas and:

1. ~~Has a Master's Degree in Psychiatric or Mental Health Nursing; or~~
2. ~~Has a Baccalaureate Degree in Nursing with one year of experience in an active treatment unit in a psychiatric or mental health hospital or outpatient clinic; or mental health hospital or outpatient clinic; or~~
3. ~~Has a Diploma or Associate Degree with two years experience in an active treatment unit in a psychiatric or mental hospital or outpatient clinic.~~

~~NOTE: Experience must have been within the last five years. If not, documentation must support psychiatric retraining or classes or CEUs to update psychiatric knowledge.~~

~~KKGG. **Quality of Care**-Clinically competent care which ~~meets professional standards,~~ supported and directed in a planned pattern to achieve maximum dignity at the required level of comfort, preventive health measures and self-management.~~

~~LL. **Registered Nurse**-A person who is currently licensed under the laws of Arkansas to use the title, Registered Nurse.~~

~~MMHH. **Rehabilitative**-To restore or bring to a condition of health or useful and constructive activity.~~

~~NNII. **Residence**-A place where a person resides, including a home, nursing home, residential care facility or convalescent home for the disabled or aged.~~

~~OOJJ. **Restorative**-Something that serves to restore to consciousness, vigor or health.~~

~~PPKK. **Service Area**-The land area for which the agency shall be licensed, which shall be consistent with their Certification of Need (CON) or Permit of Approval (POA), ~~if one is required, but in no case shall the service area consist of more than a 50 mile radius from the home health agency's primary or subunit location.~~~~

~~QQLL. **Skilled Care Services**-~~Any service delivered by a health care professional requiring orders from a physician, podiatrist or licensed practitioner.~~ Includes skilled nursing services, physical therapy, respiratory therapy services, speech-language pathology services, occupational therapy, medical social work services, and physician services,~~

~~MM. Skilled Professional – a person licensed and trained to provide skilled services according to their applicable licensing board.~~

~~RR. **Social Work Assistant**-A person who is currently licensed under the laws of Arkansas as a social worker.~~

~~SS. **Speech-Language Pathologist**-A person who is currently licensed under the laws of Arkansas to use the title, Speech-Language Pathologist.~~

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

090519

- TT. ~~**Subunit**—A semi-autonomous organization, which serves patients in a geographic area different from that of the parent agency. The subunit by virtue of the~~

DRAFT

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

090519

~~distance between it and the parent agency is judged incapable of sharing administration, supervision, and services on a daily basis with the parent agency and shall, therefore, independently meet the Conditions of Participation for home health agencies and/or shall independently meet the regulations rules and standards for licensure. A subunit may not have a branch office. The parent agency of the subunit shall be located and licensed within the state.~~

~~UUNN. **Supervision**-Authoritative procedural guidance by a qualified person, acting within his or her applicable scope of practice to a function or activity for the accomplishment of a function or activity with initial direction and periodic inspection of the actual act of accomplishing the function or activity.~~

~~OO. **Supervisor** – A skilled professional or one who has completed two years of full time study at an accredited institution of higher education. An individual who has a high school diploma or GED may substitute one (1) year of full time employment in a supervisory capacity in a healthcare facility or community-based agency for one (1) year at an institution of higher education.~~

~~PP. **Visit** – a face-to-face visit in the client's residence or by the use of information technology.~~

SECTION 5. ~~UNREGULATED AGENCY~~ LOCATION

- A. No person, partnership, association, corporation, or other organization, whether public or private, proprietary or nonprofit shall provide home health services in the State of Arkansas without a licensed fully operational physical location within the State and a sufficient number of licensed regional offices to adequately service the administrative needs of the agency and the clients. A regional office is required for non-contiguous counties. The authority is vested with Health Facility Services to determine if an agency is subject to regulation under the statute and is inherent in the responsibility to regulate agencies that are within the definitions of the Act.
- ~~B. Personnel from the Department shall schedule an appointment with the person to determine whether the person is providing home health services. If Health Facility Services determines that a person is providing home health services, the person will be notified of the determination by certified mail and will be required to submit a claim for exemption in accordance with these rules within ten days of receipt of notice. If an agency does not prove an exemption, the entity must make arrangements for transfer of patients to an Arkansas-licensed agency within 30 days.~~
- ~~C. Health Facility Services shall notify the person by certified mail that the provision of home health service is unlawful without a home health service license. Health Facility Services may refer the case for injunctive relief to the Attorney General.~~

B. Branch Office:

a.

The agency shall notify the Department in writing in advance of the plan to establish a branch office. Included in the notification shall be a description of the services to be provided (must be the same as the parent agency), the geographic area to be served by the branch office and a description of exactly how supervision by the parent agency will occur. All branch offices shall be subject to approval by Health Facility Services. Once the agency receives approval by Health Facility Services to establish the requested branch office the agency shall notify Health Facility Services of the branch office address, telephone number, and the name of the registered nurse supervisor.

- C. Onsite supervision of the branch office shall be conducted by the parent/primary agency at least every two months. The supervisory visits shall be documented and include the date of the visit, the content of the consultation, the individuals in attendance, and the recommendations of the staff. In addition, branch supervision shall include clinical record review of the branch records, inclusion in the agency's quality assurance activities, meetings with the branch supervisor, and home visits.

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

090419

- D. A full-time registered nurse shall be assigned to the branch office and shall be available during all operating hours. This person shall be an employee of the agency.
- E. All admissions shall be coordinated through the parent/primary agency and a current roster of patients shall be maintained by the parent agency at all times.
- F. A branch office shall offer the same services as those offered by the parent/primary agency.

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SECTION 6. EXEMPTIONS

- A. The Act exempts from its licensing requirements persons who hold other licenses or engage in certain limited activities. A person providing home health services, as defined in the Act, in addition to the limited activities for which an exemption would otherwise be available, shall obtain a license to provide the home health care services.
- B. The following persons are not required to be licensed under Ark. Code Ann. § 20-10-802:
1. A physician, dentist, registered nurse, or physical therapist who is currently licensed under the laws of Arkansas who provides home health services only to a patient as a part of his or her private office practice and the services are incidental to such office practice;
 2. The following health care professionals providing home health service as a sole practitioner: a registered nurse, a licensed vocational nurse, a physical therapist, an occupational therapist, a speech therapist, a medical social worker, or any other health care professional as determined by the department;
 3. A non-profit registry operated by a national or state professional association or society of licensed health care practitioners, or a subdivision thereof, that operates solely as a clearinghouse to put consumers in contact with licensed health care practitioners who will give care in a patient's residence and that neither maintains the official patient records nor directs patient services;
 4. An individual whose permanent residence is in the patient's residence;
 5. An employee of a person holding a license under this Act who provides home health services only as an employee of the licensed person and who receives no benefit for providing home health services other than wages from the employer;
 6. A home, nursing home, convalescent home, or other institution for the disabled or aged that provides health services only to residents of the home or institution;
 7. A person who provides one health service through a contract with a person licensed;
 8. A durable medical equipment supply company;

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

090419

9. A pharmacy or wholesale medical supply company that furnishes those services to persons in their homes that relate to drugs and supplies;
10. A hospital or other licensed health care facility serving only inpatient residents; and
11. A visiting nurse service or home aide service constructed by and for the adherents of a religious denomination for the purpose of providing service for those who depend upon spiritual means through prayer alone for healing.
12. Persons providing services to one or more developmentally disabled persons, as defined in § 20-48-101, under a license or certificate from the Division of Developmental Disabilities Services of the Department of Human Services.

C.

~~C. When there is a question about the subject of regulation status of a person, and the person claims of exemption under the Act should be presented to, Health Facility Services in writing shall ask the person to make a written claim to the Department, citing the subsection of the Act under which exemption is claimed and including any and all with supporting documentation, supporting the exemption claim.~~

~~D. Health Facility Services shall evaluate the information received and determine if the person is exempt. Health Facility Services shall notify the person in writing upon the completion of the evaluation.~~

SECTION 7. APPLICATION FOR LICENSE

- A. Any person, partnership, association, corporation or other organization, whether public or private, proprietary or nonprofit who supplies individuals to provide any of the services listed below shall be considered an agency.
- B. Agencies shall be required to obtain a license if the following services are provided to an individual in their home or place of residence. These services include:
1. Skilled Nursing Services;
 2. Physical Therapy Services;
 3. Occupational Therapy Services;
 4. Speech-Language Pathology Services;
 5. Medical Social Work Services;
 6. Home Health Aide Services;
 7. Personal Care Aide Services;
 8. Extended Care Services.
- C. Prior to applying for a license an agency shall obtain a Permit of Approval (POA); ~~if applicable~~. Each agency must serve the area which is consistent with their Certificate of Need (CON) or POA. ~~Any agency not required to obtain a POA shall not routinely serve greater than a 50-mile radius. Only~~ under conditional emergency circumstances approved by Health Facility Services may an agency ~~may be allowed to provide extended care to an individual patient who resides beyond a 50-mile radius outside the boundaries of their POA based on approval by Health Facility Services, Arkansas Department of Health.~~ (See requirements for Extended Care Conditional Emergency Services, Section 15.)
- ~~D. Application for temporary license shall be on forms prescribed by the Department and shall be for a period not to exceed six months.~~
- E.D. Annual license applications shall be on forms prescribed by the Department and shall be effective on a calendar year basis with an expiration date of December 31.
- F.1. 1. Each agency shall receive either a Class A or Class B license. If the agency is certified to participate in the Title XVIII Medicare program, a Class A license shall be issued. A class A agency shall meet the Conditions of

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

090419

Participation as a home health agency under Title XVIII of the Social Security Act and the regulations adopted thereunder (42 Code of Federal Regulations 405.1201 et. seq.), which regulations are adopted by reference herein for all purposes. Copies of the regulation adopted by reference in this section are indexed and filed in Health Facility Services, Arkansas Department of Health, 5800 West Tenth, Suite 400, Little Rock, Arkansas 72204, and are available for public inspection during regular working hours.

2. If the agency is not certified to participate in the Medicare program but provides home health services as defined by Ark. Code Ann. § 20-10-801 et. seq., a Class B license shall be issued.
3. Any agency holding a Class A License may obtain a Derivative Class B license from the Department, provided that the agency holding said Class A license meets the licensing standards set forth in Ark. Code Ann. § 20-10-801 et. seq., and the Rules ~~and Regulations~~ herein for Class B licensure. A Class B license so issued to the holder of a Class A license shall not be severed from the underlying Class A license **nor** separately extended into geographic areas apart from the class A service area. A separate POA from the holder of a Class A license shall not be required by the Health Department in order to issue a Derivative Class B license.
4. Each Class A or Class B license shall designate whether an agency provides the following categories of service: intermittent skilled care, extended care and/or personal care ~~only~~.
5. When a category of service is added the agency shall notify Health Facility Services of the intent. Health Facility Services shall then request from the agency the appropriate information needed to determine if the agency meets the regulatory requirements for the category of service being requested. Once this determination is made Health Facility Services shall make the appropriate changes to the license.
6. If a category of service is being discontinued, the agency shall notify Health Facility Services. Notification must include information on how the agency will ensure appropriate transfer of patients.
7. Each agency that is licensed Class A or Class B shall meet the General Requirements section of these ~~regulations~~ rules. According to services provided, agencies shall also be required to meet other sections as follows:
 - (a) Skilled Care - General Requirements (Section XI), Skilled Care Services (Section XII);

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

090419

- (b) Extended Care - General Requirements (Section XI), Skilled Care Services (Section XII), Extended Care Services (Section XIII);

DRAFT

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

090419

(c) Personal Care - General Requirements (Section XI), Personal Care Services (Section XIV).

8. No license shall be issued to operate a ~~subunit or~~ branch whose primary agency is not located within the State of Arkansas.

~~G. No license shall be transferred from one entity to another. If a person, partnership, organization or corporation is considering acquisition of a licensed agency, in order to insure continuity of patient services, the entity shall submit a license application at least 60 days prior to the acquisition for each place of business.~~

~~H. No license shall be transferred from one location to another without prior approval from Health Facility Services as provided in this subsection. If an agency is considering relocation, the agency shall complete and submit a form provided by Health Facility Services 30 days prior to the intended relocation.~~

~~1. A relocation shall be approved by Health Facility Services if the new location is within the existing service area.~~

~~2. All other relocations shall not be approved, and the licensee shall submit a new application for a license.~~

E. The agency shall notify Health Facility Services of any of the following:

1. 1. Change of name;

~~1.~~ 2. Change of location;

~~4.~~ 3. Addition or deletion of services provided;

2. 4. Request to change license classification;

~~3.~~ Request to withdraw home health designation;

~~4.~~ Notification of termination of provision of home health services;

~~5.3.~~ 5. If a Class A agency, notification of changes in certified status;

~~6.4.~~ 6. Any change ~~Change~~ in contact information including correspondence address, telephone number, email, fax number; and

~~7.~~ 7. Any name changes in the agency within five working days after the effective date of the name change; ~~Change of ownership, and~~

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

090419

~~8.5. Address change.~~

~~J.~~ F. Agency Closure. If a licensed agency closes it shall:

1. Notify Health Facility Services in writing of:

a. the effective date;

b. plans for transfer of current patients;

c. plans for storage and retrieval of medical records; and

2. Return original license to Health Facility Services.

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SECTION 8. INSPECTIONS.

~~A. An onsite review and/or inspection shall be conducted determine if standards for licensure are being met before the initial license is issued.~~

~~A.B. The If an agency wishes to add an additional of a service category to an already existing license requires approval by, the Department, may determine if specific standards are met by mail or by an onsite visit.~~

~~B. Agencies applying for licensure will receive an initial inspection. Subsequent inspections will be conducted periodically at least every 3 years on one year, two year or three year survey cycles.~~

~~1. One year inspection cycles include:~~

~~(a) Agencies licensed less than two years;~~

~~(b) Agencies having a substantiated complaint since the last inspection; or~~

~~(c) Agencies found to have deficiencies relating to patient care during the last inspection;~~

~~2. Two year survey cycles include:~~

~~(a) Agencies found to have deficiencies on the last inspection but were not placed on the one year inspection cycle;~~

~~(b) Agencies having more than two complaints during a six month period or three complaints during a twelve month period; or~~

~~(c) Agencies that have had a change of ownership or a significant change in management staff.~~

~~3.C. All other agencies will be placed on three year survey cycles.~~

~~G.B. If the inspection is conducted in order to determine compliance with standards, the agency shall come into compliance within 60 days. An onsite follow-up visit or a follow-up by mail shall be conducted to determine if deficiencies have been corrected. If the agency fails to comply, Health Facility Services may propose to suspend or revoke the license in accordance with the section relating to License Denial, Suspension, or Revocation.~~

SECTION 9. DENIAL, SUSPENSION, REVOCATION OF LICENSE

~~A. Health Facility Services may deny issuing a license to an agency if the agency fails to comply with these rules.~~

~~B.A. Health Facility Services~~ A home health agency license may be denied, may suspended or revoked ~~the license of an agency~~ for one or more of the following reasons:

1. Violation of the provisions of the statute or of any of the standards in these rules;
2. Misstatement of a material fact on any documents required to be submitted to Health Facility Services or requirements to be maintained by the agency pursuant to these rules;
3. Commission by the agency or its personnel of a false, misleading, or deceptive act or practice;
4. Materially altering any license issued by the Department.

~~C. Health Facility Services may revoke the license of an agency for one or more of the following reasons;~~

- ~~1. A repeat violation within a 12 month period which resulted in a license suspension;~~
- 2.5. An intentional or negligent act by the agency or its employees which materially affects the health and safety of a patient.

~~D.B.~~ If Health Facility Services of the Department proposes to deny, suspend, or revoke a license, the Director shall notify the agency of the reasons for the proposed action and offer the agency an opportunity for a hearing. The agency may request a hearing within 30 days after the date the agency receives notice. The request shall be in writing and submitted to Health Facility Services, Arkansas Department of Health, 5800 West Tenth, Suite 400, Little Rock, Arkansas 72204. A hearing shall be conducted pursuant to the Administrative Procedures Act. If the agency does not request a hearing in writing after receiving notice of the proposed action, the agency is deemed to have waived the opportunity for a hearing and the proposed action shall be taken.

~~E.C.~~ Health Facility Services may suspend or revoke a license to be effective immediately when the health and safety of patients are threatened. Health Facility Services shall notify the agency of the emergency action and shall notify the agency of the date of a hearing, which shall be within seven days of the effective date of the suspension or revocation. The hearing shall be conducted

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas
090419

pursuant to the Administrative Procedures Act.

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SECTION 10. BRANCH OFFICES TRAINING

- A. ~~The agency shall notify the Department in writing in advance of the plan to establish a branch office. Included in the notification shall be a description of the services to be provided (must be the same as the parent agency), the geographic area to be served by the branch office and a description of exactly how supervision by the parent agency will occur. All branch offices shall be subject to approval by Health Facility Services. Once the agency receives approval by Health Facility Services to establish the requested branch office the agency shall notify Health Facility Services of the branch office address, telephone number, and the name of the registered nurse supervisor.~~
- B. ~~Onsite supervision of the branch office shall be conducted by the parent/primary agency at least every two months. The supervisory visits shall be documented and include the date of the visit, the content of the consultation, the individuals in attendance, and the recommendations of the staff. In addition, branch supervision shall include clinical record review of the branch records, inclusion in the agency's quality assurance activities, meetings with the branch supervisor, and home visits.~~
- C. ~~A full-time registered nurse shall be assigned to the branch office and shall be available during all operating hours. This person shall be an employee of the agency.~~
- D. ~~All admissions shall be coordinated through the parent/primary agency and a current roster of patients shall be maintained by the parent agency at all times.~~
- E. ~~A branch office shall offer the same services as those offered by the parent/primary agency.~~

A. Home Health Aide Training

1. Duration of home health aide (HHA) classroom and supervised practical training shall:

a. include classroom and supervised practical training under the direct supervision of a registered nurse.

b. classroom and supervised practical training must total at least 75 hours and must include a minimum of 16 hours of classroom training prior to the minimum 16 hours of supervised practical training

2. Content of home health aide training must address the subject areas listed in attached Table 2.

B. Personal Care Aide Training

Training provided by the agency shall:

1. Include all the topics listed in the attached Table 1

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

090419

- 2. Be supervised by a registered nurse;
- 3. Be a minimum of 40 hours to include classroom and clinical instruction related to the home setting;
- 4. Have written:
 - a. course objectives
 - b. expected outcomes; and
 - c. method(s) of evaluation
- C. All home health aide and personal care aide training must be approved by the Department.
- .
- D. Unless the agency has been properly authorized by the Department of Higher Education to operate a school, training shall be limited to agency employees.

SECTION 11. GENERAL REQUIREMENTS

~~A. Operational Policies and Procedures~~ The agency shall have annually reviewed written ~~plan of operation policies~~ including:

~~1. Organizational~~

~~(a) A description of the Organizational chart structure~~ showing ownership and lines of authority down to the patient ~~care~~service level;

~~(b) The services offered, including~~

~~(b)(c) hours of operation and lines of delegation of responsibility down to the patient care level;~~

~~(c)(d) Criteria for patient acceptance, referral, transfer and termination;~~

~~(d)(e) Evidence of direct administrative and supervisory control and responsibility for all services including services provided by branch offices;~~

~~(e)(f) An annual operating budget approved by the governing body and/or administrator;~~

~~(f) Written contingency plan in the event of dissolution of the agency.~~

~~(g)2. Policies shall be developed and enforced by the agency and include the following:~~ Orientation of all personnel to the policies and objectives of the agency;

~~(h) Participation by all personnel in appropriate employee development programs, including a specific policy on the number of inservice hours that will be required for registered nurses, licensed practical nurses and aides;~~

~~(i)(a) Periodic evaluation of employee performance;~~

~~(j)3. Personnel policies;~~

~~4. Patient care policies~~ Procedures for all tasks and patient care;

~~(k)5. Reporting changes in patient condition;~~

~~(l) Disciplinary actions and procedures;~~

~~(m) Job description (statement of those functions which constitute job requirements) and job qualifications (specific education and training necessary to perform the job) for each position with the agency; and~~

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

090419

6. Infection control program policies

(a) which has as its goal including the prevention and control of the spread of infections and communicable diseases from agency personnel to clients.

(b) work restrictions according to CDC recommendations

(c) Measures for prevention of communicable disease outbreaks, especially Mycobacterium Tuberculosis (TB). All plans for the prevention of transmission of TB shall conform to the most current CDC Guidelines for preventing the Transmission of Mycobacterium Tuberculosis in Health Care Facilities.

2.7. (a) A personnel record shall be maintained for each employee. A personnel record shall include, but not be limited to, the following:

- i. job description signed by the employee;
- ii. qualifications, education, and/or training;
- iii. application for employment;
- iv. criminal history checks as required by Ark. Code Ann. § 20- 38-101 et. seq.
- v. verification of licensure, permits, references, job experience, and educational requirements as appropriate;
- vi. performance evaluations and disciplinary actions; and
- vii. letters of commendation verification of work history.

~~(b) All information shall be kept current. In lieu of the job description and qualifications for employment, the personnel record may include a statement signed by the employee that the employee has read the job description and qualifications for the position accepted.~~

~~3. It shall be the responsibility of the administration to establish written policies concerning pre-employment physicals and employee health. The policies shall include but not be limited to:~~

~~(a) Each employee shall have an up-to-date health file;~~

~~(b) At a minimum, each employee shall be tested or evaluated annually for tuberculosis in accordance with the applicable section of the Tuberculosis Manual of the Arkansas Department of Health;~~

~~(c) Work restrictions according to CDC recommendations shall be~~

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

090419

~~placed on home health personnel who are known to be affected with any disease in a communicable stage or to be a carrier of such disease, to be afflicted with boils, jaundice, infected wounds, diarrhea or acute respiratory infections. Such individuals shall not work in any area in any capacity in which there is the likelihood of transmitting disease to patients, agency personnel or other individuals within the home or a potential of~~

8. An agency-wide Quality Assurance and Improvement Program that includes all services for the purpose of monitoring the safety and effectiveness of services and quality of care. The program must include:

- a. client satisfaction surveys;
- b. supervision of services;
- c. results of inspections, surveys, and audits from outside entities; and
- d. performance improvement projects as applicable.

9. Complaints and Incidents. Each agency shall keep a record of complaints and incidents. Documentation shall include:

- a. the names of involved individuals;
- b. the relationship to the patient;
- c. the nature of the complaint/incident;
- d. date of complaint/incident; and
- e. the action taken to resolve the complaint/incident including referrals to other entities.

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

090419

~~contaminating food, food contact surfaces, supplies or any surface with pathogenic organisms;~~

~~(d)(a) Other test shall be performed as required by agency policy.~~

B. Governing ~~Body~~ Board

~~1. The governing body, or a committee designated by the governing body, of the agency shall establish a mechanism to:~~ A Home Health Agency shall have an organized Governing Board consisting of at least one member, who may be the owner, who shall be legally responsible for maintaining quality client services and establishing policies for the agency, shall be legally responsible for the conduct of the agency and shall establish a mechanism to:

(a) Approve a quality assurance plan whereby problems are identified, monitored and corrected;

(b) Adopt and periodically review written bylaws or an acceptable equivalent;

(c) Approve written policies and procedures related to safe, qualified and adequate provision of clinical services and operation of the agency, ~~with annual or more frequent review by administrative or supervisory personnel;~~

(d) Appoint an administrator who is an employee of the agency or related institution.

~~(d)(e) Approve~~ a plan for an alternate in the absence of the administrator; ~~and~~

~~(e)(f) Oversee the management and fiscal affairs of the agency;~~

~~(f) Approve the mechanisms by which Approve a method of obtaining regular reports on participant satisfaction.~~

~~2.C. Administrator Responsibilities. The governing board shall insure the agency has an administrator who is an employee of the agency or related institution to:~~ The Administrator shall:

~~(a)1. Manage Organize and direct~~ the agency's daily ongoing functions;

~~(b)2. Maintain an ongoing liaison between the governing body and the personnel;~~

~~(c)3. Employ qualified personnel and ensure appropriate ongoing~~

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

090419

education and supervision of personnel and volunteers;

~~(d)~~4. Ensure the accuracy of public information materials and activities;

~~(e)~~5. Implement and monitor the budgeting and accounting system; and

~~(f)~~6. Ensure the presence of an alternate administrator to act in the administrator's absence.

DRAFT

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

090419

- ~~3. The governing board shall be responsible for ensuring the agency has a full-time supervising registered nurse to supervise clinical services. Full-time shall be according to established business hours of the agency. The administrator and supervising nurse may be the same individual.~~
- ~~4. If a licensed agency contracts with another entity for services, the governing body shall ensure that administration, patient management and supervision down to the patient care level are ultimately the responsibility of the licensed agency.~~

~~G.D.~~ Services Provided by Contractors

- ~~1. An Arkansas licensed home health agency may contract to provide services in the licensed agency's service area provided that administration, patient management and supervision down to the patient care level are ultimately the responsibility of the licensed agency.;~~
- ~~1-2. A contracted entity or contracted individual conforms to all applicable agency policies, including those described in Section 11.A.~~
- ~~2. A written contract is required and must specify the following:
 - ~~(a) All referrals are through the primary agency and patients are accepted for care only by the primary agency;~~
 - ~~(b) The services to be provided;~~
 - ~~(c) The contracted entity conforms to all applicable agency policies, including personnel qualifications;~~
 - ~~(d) The primary agency is responsible for reviewing, approving and assuring the implementation of the plan of treatment;~~
 - ~~(e) The manner in which services will be controlled, coordinated and evaluated by the primary agency;~~
 - ~~(f) The procedures for submitting medical record documentation and scheduling of staff;~~
 - ~~(g) The procedure for how changes in the plan of treatment will be communicated between the two agencies; and~~
 - ~~(h) The procedures for determining charges and reimbursement.~~~~

~~D.~~ Quality Improvement

- ~~1. An agency shall adopt, implement and enforce a policy on a quality~~

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

090419

~~improvement program which provides for accountability and desired outcomes.~~

DRAFT

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

090419

~~2. Those responsible for the quality improvement program shall:~~

~~(a) Implement and report on activities and mechanisms for monitoring the quality of care;~~

~~(b) Identify, and when possible, resolve problems; and~~

~~(c) Make suggestions for improving care.~~

~~3. As part of the quality improvement program a clinical record review shall be conducted at least quarterly by appropriate professionals. A minimum of ten percent of both active and closed records shall be reviewed or a minimum of ten records per quarter if the case load is less than 99. The purpose of the clinical record review is to evaluate all services provided for consistency with professional practice standards for home health agencies and the agency's policies and procedures, compliance with the plan of care, the appropriateness, effectiveness and adequacy of the services offered, and evaluations of anticipated patient outcomes. Evaluations shall be based on specific record review criteria that are consistent with the agency's admission policies and other agency specific care policies and procedures.~~

E. Patient Rights

1. The agency shall provide each patient and family with a copy of the Bill of Rights affirming the patient's right to:
 - (a) Be informed of the services offered by the agency and those being provided to the patient;
 - (b) Participate in the development of the plan of care and to be informed of the dates and approximate time of service;
 - (c) Receive an explanation of any responsibilities the participant may have in the care process;
 - (d) Be informed of the name of agency and how to contact that agency during all hours of operation;
 - (e) Be informed of the process for submitting and addressing complaints to the agency and be notified of the State Home Health Hotline number;
 - (f) Be informed orally and in writing of any charges which insurance might not cover and for which the patient would be responsible;

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

090419

- (g) Courteous and respectful treatment, privacy and freedom from abuse and discrimination;
 - (h) Confidential management of ~~participant-patient~~ records and information;
 - ~~(i)~~ Access information in the ~~participant's-patient's~~ own record upon request; ~~and~~
 - ~~(j)~~(i) Receive prior notice and an explanation for the reasons of termination, referral, transfer, discontinuance of service or change in the plan of care.;
 - ~~(k)~~(j) Be informed of the right to voice grievances regarding treatment of care that is (or fails to be) furnished, and the lack of respect for property by anyone who is furnishing services on behalf of the agency and the right not to be subjected to discrimination or reprisal for doing so.;
 - ~~(l)~~(k) Control access to the patient's home; and
 - ~~(m)~~(l) Be free from verbal, mental, sexual, and physical abuse including injuries from unknown source, neglect and misappropriation of property.
2. The agency shall provide each patient and family with a written list of responsibilities affirming the patient's responsibility to:
- (a) Assist in developing and maintaining a safe environment;
 - (b) Treat all agency staff with courtesy and respect;
 - (c) Participate in the development and update of the plan of care;
 - (d) Adhere to the plan of care or services as developed by the agency and to assist in the care as necessary.

F. Advance Directives

- 1. The agency shall have written policies and procedures regarding advance directives.
- 2. The agency shall inform and distribute written information to each patient on the initial evaluation visit concerning its policies on advance directives. Written information shall include notifying patients of their right to:
 - (a) Make decisions about their medical care;

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas
090419

- (b) Accept or refuse medical or surgical treatment; and
- (c) Formulate, at the individual's option, an advanced directive.

DRAFT

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

090419

- (d) The agency shall document in the patient's medical record whether he or she has executed an advance directive.

G. ~~Services Provided~~

1. ~~All services shall be rendered and supervised by qualified personnel. An agency shall provide at least one of the following:~~
- ~~(a) If nursing service is provided, a registered nurse shall be employed by the agency to supervise nursing care. A licensed practical nurse may only provide services under the supervision of a registered nurse. The administrator shall designate a registered nurse to serve as an alternate supervisor;~~
 - ~~(b) If physical therapy is provided, a registered physical therapist shall be employed by or under contract with the agency to provide services and/or supervision. A licensed physical therapy assistant may only provide services under the supervision of a registered physical therapist.~~
 - ~~(c) If occupational therapy service is provided, a licensed occupational therapist shall be employed by or under contract with the agency to provide services. A licensed occupational therapy assistant may only provide services under the supervision of a registered occupational therapist;~~
 - ~~(d) If speech language pathology services are provided, a licensed speech language pathologist shall be employed by or under contract with the agency to provide services and/or supervision;~~
 - ~~(e) If medical social work is provided, a licensed medical social worker shall be employed by or under contract with the agency. A social work assistant may only provide social services under the supervision of a licensed medical social worker;~~
 - ~~(f) If home health/personal care aide service is provided, a home health/personal care aide shall be employed by or under contract to provide home health aide services. The aide shall be supervised by a registered nurse at least every 62 days.~~

H. ~~Nursing Services~~

- 1.3. ~~A registered nurse shall make the initial evaluation visit and initiate the plan of care and necessary revisions. The initial evaluation routinely must be performed within 72 hours of the initial referral or discharge from an inpatient facility.~~

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

090419

- ~~2. A registered nurse shall regularly re-evaluate the patient's nursing needs. A visit to the patient's home by the registered nurse shall be conducted at least every 62 days and after each hospitalization.~~
- ~~3. The registered nurse and the licensed practical nurse shall prepare clinical notes and furnish services according to agency policy.~~
4. If a patient is under a psychiatric plan of care, a psychiatric nurse shall be available to make the initial evaluation visit, re-evaluate the patient's nursing needs at least every 30 days and complete clinical notes.

I. Physical Therapy Services

- ~~1. The registered physical therapist shall assist the physician or licensed practitioner in evaluating the level of function and help develop the plan of care (revising it as necessary). The initial evaluation shall be conducted within five working days of the referral or sooner if medical necessity dictates.~~
- ~~2.5. If a licensed physical therapy assistant is used, the registered physical therapist shall conduct a visit to the patient's home at least every 62 days to re-evaluate the patient's condition and supervise the licensed physical therapy assistant.~~
- ~~3. The registered physical therapist is responsible for discharge planning from physical therapy services and for communicating this plan to the patient.~~
- ~~4. The registered physical therapist and licensed physical therapy assistant shall prepare clinical notes and furnish services according to agency policy.~~

J. Occupational Therapy Services

- ~~1. The registered occupational therapist shall assist the physician or licensed practitioner in evaluating the level of function and help develop the plan of care (revising it as necessary). The initial evaluation shall be conducted within five working days of the referral or sooner if medical necessity dictates.~~
- ~~2. If a licensed occupational therapy assistant is used, the registered occupational therapist shall conduct a visit to the patient's home at least every 62 days to re-evaluate the patient's condition and supervise the licensed occupational therapy assistant.~~

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

090419

3. ~~The registered occupational therapist is responsible for discharge planning from occupational therapy services and for communicating this plan to the patient.~~
4. ~~The registered occupational therapist and the licensed occupational therapy assistant shall prepare clinical notes and furnish services according to agency policy.~~

~~K. Speech-Language Pathology Services~~

1. ~~The licensed speech-language pathologist shall assist the physician or licensed practitioner in evaluating the level of function and help develop the plan of care (revising it as necessary). The initial evaluation visit shall occur within five working days of the referral or sooner if medical necessity dictates.~~
2. ~~The licensed speech-language pathologist shall prepare clinical notes and furnish services according to agency policy.~~

~~L. Medical Social Services~~

1. ~~The licensed medical social worker shall participate in evaluating the patient's need for services and in the development of the plan of care.~~
2. ~~The licensed medical social worker shall supervise the social work assistant according to agency policy.~~
- 3.6. ~~The licensed medical social worker and social work assistant shall prepare clinical notes and provide services according to agency policy.~~

~~M. Home Health Aide Services/Personal Care Aide Services~~

1. ~~Each home health/personal care aide shall meet at least one of the following requirements:~~
 - (a) ~~Have at least one year of experience in an institutional setting (home health agency, hospital, hospice, or long-term care facility). This experience shall be verified by a previous employer;~~
 - (b)(a) ~~Have a certificate issued by the State of Arkansas for working in long term care facilities. A copy of this certificate shall be available for review;~~
 - (c)(b) ~~Have completed a 40-hour aide training course that meets the requirements set forth in these regulations rules.~~

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

090419

~~NOTE: In lieu of the requirement for completion of the home health aide training course, a nursing student may qualify as a home health aide by submitting documentation from Health Facility Services of programs and/or the Dean of a School of Nursing that states that the nursing student has demonstrated competency in providing basic nursing care in accordance with the school's curriculum.~~

- ~~2.7. The agency is responsible for evaluating the competency of any aide who has not been employed as an aide in an institutional setting in the last 24 months. At a minimum, the aide shall be observed by a registered nurse performing the skills required to care for a patient including bathing, transferring, range of motion exercises, toileting, dressing, nail care and skin care. The registered nurse shall observe the aide performing these skills on a person. Any other tasks or duties for which the aide may be responsible may be evaluated by written test, oral test or observation. There shall be documentation by the agency to show evidence of this evaluation.~~
- ~~3. A registered nurse shall complete an aide assignment sheet for each patient receiving aide services. Each aide caring for the patient shall receive a copy of the assignment sheet and provide services as assigned. A copy of the assignment sheet shall be left in the patient's home.~~
- ~~4.8. Each aide assignment sheet shall be individualized and specific according to the patient's needs.~~
- ~~5. The registered nurse shall conduct a visit to the patient's place of residence at least every 62 days to supervise the aide and update the aide assignment sheet.~~
- ~~6. In no event shall a home health aide be assigned to receive or reduce to writing orders from a physician or licensed practitioner. A home health aide shall not perform any sterile procedure or any procedure requiring the application of medication requiring a prescription.~~
- ~~7. Upon a request by a patient and/or family member for assistance with medications, the registered nurse may assign a home health aide to assist with oral medications which are normally self-administered. Assistance shall be limited to reminding a patient to take a medication at a prescribed time, opening and closing a medication container and returning a medication to a proper storage area.~~
- ~~8. Except as otherwise provided in these rules, duties of the home health aide may include:
 - ~~(a) Personal care: bathing, grooming, feeding, ambulation, exercise,~~~~

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

090419

~~oral hygiene, and skin care;~~

~~(b) Assistance with medications ordinarily self-administered as assigned;~~

~~(c) Household services essential to health care in the home;~~

~~(d) Completion of records and reporting to appropriate supervisor;~~

~~(e) Taking and charting vital signs;~~

~~(f) Charting intake and output;~~

~~(g) Extension of therapy services; and~~

~~(h) Any duty consistent with the State Board of Nursing Regulations on Delegation of Duties may be assigned by a registered nurse to meet the individual needs of the patient.~~

~~9. If the training is provided by the agency, the training program for home health aides shall be conducted under the supervision of a registered nurse. The training program may contain other aspects of learning, but shall include the following:~~

~~(a) A minimum of 40 hours of classroom and clinical instruction related particularly to the home health setting;~~

~~(b) Written course objectives with expected outcomes and methods of evaluation; and~~

~~(c) An assessment that the student knows how to read and write English and to carry out directions.~~

~~10. Course and clinical work content shall include, but not be limited to, bathing, ambulation and exercise, personal grooming, principles of nutrition and meal preparation, health conditions, developmental stages and mental status, household services essential to health care at home, assistance with medication, safety in the home, completion of appropriate records and reporting changes to appropriate supervisor.~~

~~11. Aides shall receive a minimum of 12 hours of in-service training per 12 months. The inservices provided shall address areas that directly relate to the patient care aspects of the aide's job.~~

N.G. Records and Documentation

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

090419

1. The home health agency shall maintain records of all services provided to patients which are orderly, intact, legibly written and available and retrievable either in the agency or by electronic means and suitable for photocopying or printing.
2. Records shall be stored in a manner which:
 - (a) Prevents loss or manipulation of information;
 - (b) Protects the record from damage; and
 - (c) Prevents access by unauthorized persons.
3. Records shall be retained ~~for a minimum of five years after discharge of the patient or two years after the age of majority~~ according to State and Federal laws.
4. Each record shall include:
 - (a) Appropriate identifying information, Assessments and evaluations;
 - ~~(b) Initial assessment (performed by a registered nurse or therapist). If the agency is unable to perform the initial evaluation for physical therapy, occupational therapy or speech-language pathology in the required time frame, the reason for the delay shall be documented. If delays are due to the agency not having the staff to perform the initial evaluation and/or provide services, there shall be documentation to show the patient and the physician or licensed practitioner were notified of the delay and were given an estimated date when services would begin. The patient, physician or licensed practitioner shall also be informed of other agencies in the area available to provide the ordered services.~~
 - ~~(c)(b)~~ Plans and assignments of care (which shall include as applicable, medication, dietary, treatment, activities); and
 - ~~(d)(c)~~ Any clinical notes;
 - ~~(e)(d)~~ Acknowledgment of receiving information regarding advance directives;
 - ~~(f)(e)~~ Date and time employees or contracted individuals are in the home; and
 - (f) Tasks completed.
 - ~~(g)~~

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas
090419

5. The following shall be included, if applicable;
- (a) Physician, podiatrist and/or licensed practitioner order; and
 - (b) Records of supervisory visits; ~~;~~
 - (c) Medication administration records;
 - ~~(e)~~ (d) Any clinical notes

DRAFT

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

090419

~~(d)~~(e) Records of case conferences;

~~(e)~~(f) Discharge summary;

6. Clinical notes are to be written the day the service is rendered and incorporated into the record no less often than every 14 days.
7. Provisions shall be made for the protection of records in the event an agency ceases operation.

~~O. Discharge Planning~~

- ~~1. There shall be a specific plan for discharge in the clinical record and there must be ongoing discharge planning with the patient.~~

~~P. Complaints~~

- ~~1. Each agency shall keep a record of complaints received. Documentation shall be kept on each complaint regarding the name of the complainant, the relationship to the patient (if applicable), the nature of the complaint, and the action taken to resolve the complaint.~~

SECTION 12. STANDARDS FOR SKILLED CARE SERVICES

In addition to meeting the General Requirements, agencies providing skilled care shall meet the following:

A. Acceptance of Patients

1. Agencies shall only accept patients for treatment on the basis of a reasonable expectation that the patient's needs can be met adequately by the agency in the patient's place of residence.
2. If an agency receives a referral on a patient who requires home health services that are not available at the time of referral, the agency shall contact the referral source and/or the patient's physician or licensed practitioner to let them know the situation. The agency shall only admit the patient if no other agency licensed in the area has the service(s) available.

B. Care and Services

1. All services shall be rendered and supervised by skilled professionals. Skilled services such as nursing, physical therapy, occupational therapy, speech-language pathology, and medical social work shall provide services and supervision according to the scope of practice determined by their applicable licensing board.

2. Assessments:

(a) An initial assessment shall be completed within 48 hours of the referral/discharge in the patient's residence by an employee of the agency who has completed orientation/training in the initial assessment procedures of the agency and has demonstrated competency in the performance of these skills. The initial assessment shall be completed by a registered nurse, if nursing services are provided, or licensed therapist other skilled professional, as appropriate.

1.(b) For patients receiving skilled services, the assessment shall be updated every 60 days or when a significant change in patient status occurs.

3. Plan of Care:

(a) At the time of the admission, the plan of care shall be developed in conjunction with the patient and/or family and the appropriate skilled health care professional.

2.(b) Discharge planning shall be the responsibility of the skilled health care professional rendering the service and documented in the record.

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

090519

 (c) The plan of care shall include potential services to be rendered; the frequency of visits and/or hours of service, assignment of health care providers and the estimated length of services.

 (d) The plan of care shall be revised at least every ~~62~~ 60 days.

~~3.~~ (e) The plan of care shall be individualized according to each of the individual patient's needs.

 (f) The plan of care and each verbal order obtained shall be signed by the physician, podiatrist or licensed practitioner within 30 days of the of the order.

~~5.4.~~ Case conferences shall be held at least every two months on each patient. The clinical record or minutes of these case conferences shall reflect input by the disciplines providing care to the patient.

~~6.5.~~ For patients receiving extended care nursing services, a current medication administration record shall be maintained and incorporated

into the clinical record. Notation shall be made in the clinical notes of medications not given and reason. Any untoward action shall be reported to the supervisor and documented.

7.6. The clinical record shall include documentation of medication allergies or sensitivities and medication interactions. There must be a medication profile, including the dose, frequency and route of administration for each prescription medication the patient is receiving.

C. 24 Hour Availability

1. If an agency provides 24-hour availability, the agency shall have a registered nurse available after hours. When an agency provides extended care, the agency shall provide 24-hour coverage and availability. A licensed practical nurse may take initial call and perform services as ordered on the plan of care. Any services outside the plan of care must be approved by a registered nurse prior to the services being rendered.
2. If 24-hour availability is provided, the agency shall have a policy describing at least the following:
 - (a) How patients will contact the agency after hours; and
 - (b) How the agency will ensure the registered nurse on call has access to all current patient information.
3. If ~~24-hour~~24-hour availability is not offered by the agency, the agency shall be responsible for assuring each patient is aware of the steps to take in an emergency or unusual situation.

D. Controlled Drugs

1. Agencies shall have a written policy stating how controlled drugs will be monitored if agency staff transports the drugs from the pharmacy to the patient.
2. If controlled drugs are being administered by the agency, there shall be a policy regarding how the drugs will be administered and monitored.

E. Home Health Aide Services

1. A home health aide shall have completed a 75-hour aide training course that meets the requirements set forth in Section 9 of these

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

090519

rules.

2. The agency is responsible for assuring the home health aide has successfully completed competency testing. The competency evaluation must address each of the topics in TABLE 2. The following skills must be evaluated by the registered nurse by observing the aide's performance while carrying out the following tasks with a patient:

- a. communication skills including the ability to read, write, and verbally report clinical information;
- b. reading and recording temperature, pulse, and respiration;
- c. appropriate and safe techniques in performing personal hygiene and grooming tasks that include:
 - i. bed bath;
 - ii. sponge, tub, shower bath;
 - iii. hair shampooing in sink, tub, and bed;
 - iv. nail and skin care;
 - v. oral hygiene;
 - vi. toileting and elimination;
- d. safe transfer techniques and ambulation; and
- e. normal range of motion and positioning.

3. A registered nurse shall complete an aide assignment sheet to delegate services according to the State Board of Nursing, for each patient receiving home health aide services.

4. Each aide caring for the patient shall receive a copy of the assignment sheet.

5. Provide services as assigned.

6. A copy of the assignment sheet shall be left in the patient's home.

7. Each aide assignment sheet shall be individualized and specific according to the patient's needs

8. The qualified health care professional shall conduct a visit to the patient's place of residence and update the aide assignment sheet:

- a. every 14 days for the home health aide;
- b. every 60 days for the personal care aide.

9. Aides shall receive a minimum of 12 hours of in-service training per 12 months. The in-services provided shall address areas that directly relate to the patient care aspects of the aide's job.

SECTION 13. STANDARDS FOR EXTENDED CARE SERVICES

Extended Care is defined as six or more hours of continuous home health services provided in a 24-hour period, by a licensed agency which provides both skilled nursing and other home health services. (Medicaid Personal Care is not included in the above definition.) In addition to meeting the applicable standards for Class B license, all agencies providing extended care must meet the following:

- A. Shall make available in writing the hours of service and provide a registered nurse supervisor or a registered nurse and supervisor for consultation and triage at least during those hours. The agency shall be responsible for assuring that each patient, or guardian if the patient is mentally incompetent, is aware of the steps to take in an emergency or unusual situation. The agency must have a contingency plan regarding how the case is managed if a scheduled employee is unable to staff the case;
- B. The patient's permanent medical record shall be available at the licensed agency location that has been approved by Health Facility Services to provide the services;
- C. A medical record must also be maintained in the home if a patient is receiving skilled extended care.
 - 1. The record must contain:
 - (a) Current plan of treatment (physician's or licensed practitioner orders);
 - (b) Medication profile;
 - (c) Clinical notes;
 - (d) Documentation of any medication administered by agency staff including the date, time, dosage and the manner of administration;
 - (e) Any other information deemed necessary by the licensed agency.
 - 2. The information included in the home record must be filed in the permanent medical record at least every two weeks if it is not already included in the permanent record.
 - 3. If extended care aide service is the only service being provided, a home record is not required. Written instructions for the aide service must be maintained in the home and in the permanent record;
- D. For patients receiving skilled extended care, a visit must be made to the patient's

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

090419

home by a registered nurse, who is an employee of the licensed agency, no less frequently than every two weeks to supervise the services being provided. Patients requiring extended care services beyond three months and classified by the licensed agency as chronic/stabilized will require supervision once every month. For patients receiving extended care aide services only, the aide must be continually supervised and a visit must be made to the patient's home by a registered nurse at least every 30 days;

- E. The agency must have an orientation plan for the staff providing the care to the patients. Since extended care cases may involve highly technical services, this plan must reflect how the agency ensures that the individuals providing the extended care are qualified to provide these types of services;

~~F. Contracting for Extended Care Services~~

~~An Arkansas licensed home health agency may contract with another entity to provide extended care in the licensed agency's service area provided that administration, patient management and supervision down to the patient care level is ultimately the responsibility of the licensed agency.~~

~~A written contract is required and must specify the following:~~

- ~~1. All referrals are through the primary agency and patients are accepted for care only by the primary agency;~~
- ~~2. The services to be provided;~~
- ~~3. The contracted entity conforms to all applicable agency policies, including personnel qualification;~~
- ~~4. The primary agency is responsible for reviewing, approving and assuring the implementation of the plan of treatment;~~
- ~~5. The manner in which services will be controlled, coordinated and evaluated by the primary agency;~~
- ~~6. The procedures for submitting medical record documentation and scheduling of staff;~~
- ~~7. The procedure for how changes in the plan of treatment will be communicated between the two agencies;~~

~~G. Conditional Emergency Service~~

- ~~1. Notwithstanding the provisions of these Rules and Regulations, Health Facility Services shall be empowered to permit the provision of extended~~

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

090419

- (a) ~~Certifies that the patient requires conditional emergency services which shall be defined as; a medically indicated skilled extended care case in which the patient requires specialized care of a registered nurse or a licensed practical nurse under the supervision of a registered nurse, not available through licensed agencies in the area and which, if not provided, would result in the patient being institutionalized;~~
 - (b) ~~Furnishes such information on forms prescribed by the Department regarding the patients receiving conditional emergency services that would include but not be limited to:~~
 - (1) ~~Name of patient;~~
 - (2) ~~Address of the patient;~~
 - (3) ~~Diagnosis;~~
 - (4) ~~The type of specialized skilled extended care the patient requires and why the patient would require institutionalization if the care was not provided;~~
 - (c) ~~Furnishes information to the Department ensuring that all agencies whose extended care licensed area encompasses the location of the patient were contacted to determine if the required services could be provided. Such information should include the name of the agency contacted, the name of the person contacted, the date and time of the contact, and the reason given for not being able to provide the care. If the agency contacted does not respond with an answer within 24 hours of the initial contact the agency seeking to provide the services may proceed as required. The lack of response should be noted in the information furnished to the Department.~~
2. ~~In each case Health Facility Services shall maintain a file or register concerning the Conditional Emergency Service and notify both the Health Services Agency and any licensed providers whose extended care geographical area includes the location of the service.~~
 3. ~~The approval will be for a period of 180 days. For each consecutive 180 day period thereafter, the agency will be required to submit documentation as required in G.~~

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

090419

- ~~4. If, at the end of each 180 day period services are available through an agency licensed for the area, the agency providing the service must notify the patient/caregiver of the availability of services through a licensed agency in the area and offer the opportunity to transfer.~~
- ~~5. The choice of transfer shall be the patient/caregiver's decision.~~
- ~~6. An agency operating outside their licensed service area must provide documentation to the Department at the beginning of each 180 day period that the patient was informed of any new agencies providing extended care services in the area and was given the choice of transferring. The information shall be submitted on forms prescribed by the Department.~~
- ~~7. An agency operating outside their licensed geographic area to provide extended care may provide all services required by the patient until such time the skilled extended care is discontinued or the patient is transferred to an agency licensed to provide extended care services in the area. The discharging agency will be responsible for referring the patient to an agency licensed to serve the area in which the patient resides if the patient requires further service.~~

H.F. Prior to withdrawing skilled nursing services for an extended care patient the home health agency shall:

1. Provide evidence that ongoing efforts were made to recruit staff or place with another agency; and
2. Give the patient/family at least 60 days notice, in writing, of the intent to discharge the patient.

08/27/19

SECTION 14. STANDARDS FOR PERSONAL CARE SERVICES

- ~~A. The registered nurse shall perform an initial evaluation visit within five days of a specific request for personal care aide services.~~
- ~~B. If the agency cannot perform an initial evaluation visit within five days of a specific request for services, there shall be documentation regarding the reason, the anticipated date the evaluation will be conducted, and notification of the patient regarding when the evaluation will be performed.~~
- ~~C. If the agency does not have services available at the time of the initial evaluation, the agency shall explain this to the patient. If the agency cannot staff the case within two weeks of the initial evaluation, the agency shall be responsible for contacting other agencies in the area to determine if services are available. If another agency can provide the services in a shorter length of time, the patient shall be informed and given the choice of changing agencies.~~
- ~~D. If an aide misses a scheduled visit, there shall be documentation that the patient was contacted prior to the missed visit. Every attempt shall be made to send a substitute aide to provide the care.~~
- ~~E. If care is ordered per hour, the aide shall document the time the aide arrived at the home and the time the aide departed.~~
- ~~F. Each aide shall document each visit the tasks that were performed. If a task is not completed that is specifically ordered on the aide assignment sheet, there shall be a documented reason why. Patient care problems noted by the aide during the course of care shall be reported to the registered nurse.~~
- ~~G. The registered nurse shall make a visit to each patient's home at least every 62 days to supervise aide services. A registered nurse shall be available for consultation during operating hours.~~

H.A. All Services

- 1. The agency shall:
 - a. Perform an initial evaluation visit and determine:
 - i. the needs and condition of the client;
 - ii. the services to be provided; and
 - iii. the personnel to provide the services.

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

08/27/19

- † b. Develop the aide service plan which shall;
 - i. outline the services;
 - ii. determine scope and frequency of visits;
 - iii. assign appropriate delegation of services consistent with the AR State Board of Nursing; and
 - iv. determine supervision scope and frequency. Frequency shall be at least annually.
- ‡ c. The Aide shall report changes in the needs and condition of the client.

B. Personal Care Services:

- 1. Delegated through the use of an Aide Service plan;
- 2. Each aid shall receive a copy of the Aide Service plan;
- 3. A copy of the Aide Service plan shall be left in the home;
- 4. The Aide Service plan shall be individualized and specific;
- 5. Aides shall receive a minimum of 12 hours of in-service training per 12 months. The in-services provided shall address areas that directly relate to the client care aspect of the aide's job.

SECTION 15: CONDITIONAL EMERGENCY SERVICE

A. Conditional Emergency Service

1. Notwithstanding the provisions of these Rules, Health Facility Services shall be empowered to permit the provision of ~~extended~~ skilled care.
 - (a) Certifies that the patient requires conditional emergency services which shall be defined as; a medically indicated skilled ~~extended~~ care case in which the patient requires specialized care of a registered nurse or a licensed practical nurse under the supervision of a registered nurse, not available through licensed agencies in the area and which, if not provided, would result in the patient being institutionalized;
 - (b) Furnishes such information on forms prescribed by the Department regarding the patients receiving conditional emergency services that would include but not be limited to:
 - (1) Name of patient;
 - (2) Address of the patient;
 - (3) Diagnosis;
 - (4) The type of specialized skilled extended care the patient requires and why the patient would require institutionalization if the care was not provided;
 - (c) Furnishes information to the Department ensuring that all agencies whose extended care licensed area encompasses the location of the patient were contacted to determine if the required services could be provided. Such information should include the name of the agency contacted, the name of the person contacted, the date and time of the contact, and the reason given for not being able to provide the care. If the agency contacted does not respond with an answer within 24 hours of the initial contact the agency seeking to provide the services may proceed as required. The lack of response should be noted in the information furnished to the Department.
2. In each case Health Facility Services shall maintain a file or register concerning the Conditional Emergency Service and notify both the Health Services Agency and any licensed providers whose extended care geographical area includes the location of the service.

Rules for home Health Agencies in Arkansas

090519

3. The approval will be for a period of 180 days. For each consecutive 180-day period thereafter, the agency will be required to submit documentation as required in G.
4. If, at the end of each 180-day period services are available through an agency licensed for the area, the agency providing the service must notify the patient/caregiver of the availability of services through a licensed agency in the area and offer the opportunity to transfer.
5. The choice of transfer shall be the patient/caregiver's decision.
6. An agency operating outside their licensed service area must provide documentation to the Department at the beginning of each 180-day period that the patient was informed of any new agencies providing extended care services in the area and was given the choice of transferring. The information shall be submitted on forms prescribed by the Department.
7. An agency operating outside their licensed geographic area to provide extended care may provide all services required by the patient until such time the skilled extended care is discontinued or the patient is transferred to an agency licensed to provide extended care services in the area. The discharging agency will be responsible for referring the patient to an agency licensed to serve the area in which the patient resides if the patient requires further service.

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

090419

SECTION 16: Severability

If any provision of these Rules, or the application thereof to any person or circumstances is held invalid, such provisions or applications of these Rules that can give effect without the invalid provisions or applications will be enforced, and to this end the provisions hereto are declared to be severable.

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Rules for home Health Agencies in Arkansas

090519

TABLE 1

Personal Care Aide training for employees course and clinical work topics shall include, but not be limited to:

A. Body Functions;

B. Body Mechanics & Safety Precautions;

C. Communication Skills;

D. Health conditions including Dementia and Alzheimer's;

E. Emergency recognition and procedures;

F. Household safety and fire;

G. Infection control;

H. Ethical considerations and state law regarding Nurse delegation;

I. Nutrition;

J. Ambulation;

K. Household services for healthcare to include basic housekeeping procedures and laundry;

L. Bathing, shampooing, shaving;

M. Personal grooming to include dressing and undressing;

N. Meal preparation and clean up;

O. Oral hygiene;

P. Normal range of motion;

Q. Toileting;

R. Transfer techniques;

S. Recordkeeping and documentation to include reporting changes to appropriate supervisor;

T. Role of caregiver in team; and

U. Nail and skin care.

SECTION 9

TABLE 9-1

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

090519

TABLE 2

Home Health Aide training for employees course and clinical work topics shall include, but not be limited to:

- A. Communication skills, including the ability to read, write, and verbally report clinical information to patients, representatives, and caregivers, as well as to other HHA staff.
- B. Observation, reporting, and documentation of patient status and the care or service furnished.
- C. Reading and recording temperature, pulse, and respirations.
- D. Basic infection prevention and control procedures.
- E. Basic elements of body functioning and changes in body function that must be reported to an aide's supervisor.
- F. Maintenance of a clean, safe, and healthy environment.
- G. Recognizing emergencies and the knowledge of instituting emergency procedures and their application.
- H. The physical, emotional, and developmental needs of and ways to work with the population served by the HHA, including the need for respect for the patient, his or her privacy, and his or her property.
- I. Appropriate and safe techniques in performing personal hygiene and grooming tasks that include—
 - A. Bed bath;
 - B. Sponge, tub, and shower bath;
 - C. Hair shampooing in sink, tub, and bed;
 - D. Nail and skin care;
 - E. Oral hygiene;
 - F. Toileting and elimination;
- J. Safe transfer techniques and ambulation;
- K. Normal range of motion and positioning;
- L. Adequate nutrition and fluid intake;

Rules ~~and Regulations~~ for Home Health Agencies in Arkansas

090519

- M. Recognizing and reporting changes in skin condition; and
- N. Any other task that the HHA may choose to have an aide perform as permitted under state law.

ARKANSAS
STATE BOARD OF HEALTH

**RULES FOR
HOME HEALTH AGENCIES IN ARKANSAS**



Promulgated under the Authority of:
Revision effective date:

ARKANSAS DEPARTMENT OF HEALTH
HEALTH FACILITY SERVICES

NATHANIEL SMITH, MD, MPH
SECRETARY OF HEALTH

2020 Rules for Home Health Agencies in Arkansas

Table of Contents

SECTION 1. PREFACE

SECTION 2. AUTHORITY

SECTION 3. PURPOSE

SECTION 4. DEFINITIONS

SECTION 5. AGENCY LOCATION

SECTION 6. EXEMPTIONS

SECTION 7. APPLICATION FOR LICENSE

SECTION 8. INSPECTIONS

SECTION 9. DENIAL, SUSPENSION, REVOCATION OF LICENSE

SECTION 10. TRAINING

SECTION 11. GENERAL REQUIREMENTS

SECTION 12. STANDARDS FOR SKILLED CARE SERVICES

SECTION 13. STANDARDS FOR EXTENDED CARE SERVICES

SECTION 14. STANDARDS FOR PERSONAL CARE SERVICES

SECTION 15. CONDITIONAL EMERGENCY PERMITS

SECTION 16. SEVERABILITY

TABLES

CERTIFICATION

2020 Rules for Home Health Agencies in Arkansas

SECTION 1. PREFACE

These rules have been prepared for the purpose of establishing a criterion for minimum standards for the licensure of Home Health Agencies in Arkansas that is consistent with current trends in patient care practices. By necessity they are of a regulatory nature but are considered to be practical minimal design and operational standards for these facilities. These standards are not static and are subject to periodic revisions in the future as new knowledge and changes in patient care trends become apparent. However, it is expected that facilities will exceed these minimum requirements and that they will not be dependent upon future revisions in these standards as a necessary prerequisite for improved services. Each Home Health Agency has a strong moral responsibility for providing optimum patient care and treatment for the patients it serves.

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2020 Rules for Home Health Agencies in Arkansas

SECTION 2. AUTHORITY

The following Rules for Home Health Agencies in Arkansas are duly adopted and promulgated by the Arkansas State Board of Health pursuant to the authority expressly conferred by the laws of the State of Arkansas in Ark. Code Ann. § 20-10-801 et. seq.

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SECTION 3. PURPOSE

In accordance with Ark. Code Ann. § 20-10-801 et. seq., rules and minimum standards for home health programs operating in the State of Arkansas are hereby established. These rules will ensure high quality professional care for patients in their home by providing for the safe, appropriate care of all admitted to a home health program regardless of setting and shall apply to both new and existing agencies.

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2020 Rules for Home Health Agencies in Arkansas

SECTION 4. DEFINITIONS

The following word and terms, when used in these sections, shall have the stated meanings, unless the context clearly indicates otherwise:

- A. **Administrator**-A person who is an agency employee and is a physician, registered nurse, or an individual with at least one year of supervisory or administrative experience in home health care or in related health provider programs.
- B. **Aide Assignment Sheet/Aide Service Plan** – written assignments developed and supervised by a qualified supervisor for the tasks to be completed by the aide.
- C. **Branch Office**-A location or site from which a Medicare certified home health agency provides services within the contiguous counties of the primary agency POA . The branch office is part of the primary agency and is located sufficiently close to share administrative supervision and services in a manner that renders it unnecessary to obtain a separate license as a home health agency. A branch office shall have at least one registered nurse assigned to that office on a full time basis.
- D. **Certified Agency**-A home health agency which holds a letter of approval signed by an official of the Department of Health and Human Services. The agency must be currently in compliance with the Conditions of Participation in the Social Security Act, Title XVIII.
- E. **Clinical Manager** – Licensed physician, physical therapist, speech language pathologist, occupational therapist, audiologist, social worker or registered nurse.
- F. **Clinical Note**-A dated, written or electronic and signed notation by agency personnel of a contact with a patient including a description of signs and symptoms, treatment and/or medication given, the patient's response, other health services provided, and any changes in physical and/or emotional condition.
- G. **Clinical Record**-An accurate account of services provided for each patient and maintained by the agency.
- H. **Contractor**-An entity or individual providing services for the agency who does not meet the definition of employee.
- I. **Coordinating**-Bringing needed services into a common action, movement or condition of the health of the patient.

2020 Rules for Home Health Agencies in Arkansas

- J. **Department**-The Arkansas Department of Health, Health Facility Services.
- K. **Discharge Summary**-A recapitulation of all services provided by the home health agency before discharge of a patient.
- L. **Employee**-Any individual for whom the agency is required to issue a form W-2.
- M. **Health**-The condition of being sound in body, mind and spirit, especially freedom from physical disease or pain.
- N. **Health Assessment**-A determination of a patient's physical and mental status performed by medical professionals.
- O. **Home Health Agency**-Any person, partnership, association, corporation, or other organization, whether public or private, proprietary, or non-profit, that provides a home health service for pay or other consideration in a patient's residence.
- P. **Home Health Aide** -A person who provides home health aide services for a person in the home under the supervision of a registered nurse.
- Q. **Home Health Services**-The providing or coordinating of acute, restorative, rehabilitative, maintenance, preventive, or health promotion services through professional nursing or by other therapeutic services such as physical therapy, speech therapy, occupational therapy, medical social services, home health aide or personal services in a client's residence.
- R. **Licensed Practitioner** – An individual permitted by law and by the Home Health Agency to prescribe care. **Maintenance**-To keep in an existing state.
- S. **Parent Agency**-The Medicare certified agency physically located within the state that develops and maintains administrative control of branches.
- T. **Patient Care Conference**-A documented conference among the home health agency staff or contractors providing care to a patient to evaluate patient care needs and the delivery of service.
- AA. **Personal Care**-Medically prescribed health related assistance in activities of daily living, hygiene and grooming.
- BB. **Personal Care Aide** – A person who provides personal care services for a person in their home.

2020 Rules for Home Health Agencies in Arkansas

- CC. **Physician**-A person who is currently licensed under the Arkansas Medical Practices Act.
- DD. **Place of Business**-Any office of a home health agency that maintains home health service patient records or directs home health services.
- EE. **Plan of Care**-A written plan which specifies scope, frequency and duration of services that is signed by a qualified practitioner.
- FF. **Preventive**-To keep from happening or existing.
- GG. **Quality of Care**-Clinically competent care which, supported and directed in a planned pattern to achieve maximum dignity at the required level of comfort, preventive health measures and self-management.
- HH. **Rehabilitative**-To restore or bring to a condition of health or useful and constructive activity.
- II. **Residence**-A place where a person resides, including a home, nursing home, residential care facility or convalescent home for the disabled or aged.
- JJ. **Restorative**-Something that serves to restore to consciousness, vigor or health.
- KK. **Service Area**-The land area for which the agency shall be licensed, which shall be consistent with their Certification of Need (CON) or Permit of Approval (POA).
- LL. **Skilled Care Services**- Includes skilled nursing services, physical therapy, respiratory therapy services, speech-language pathology services, occupational therapy, medical social work services, and physician services,
- MM. **Skilled Professional** – a person licensed and trained to provide skilled services according to their applicable licensing board.
- NN. **Supervision**-Authoritative procedural guidance by a qualified person, acting within his or her applicable scope of practice to a function or activity.
- OO. **Supervisor** – A skilled professional or one who has completed two years of full time study at an accredited institution of higher education. An individual who has a high school diploma or GED may substitute one (1) year of full time employment in a supervisory capacity in a healthcare facility or community-based agency for one (1) year at an institution of higher education.

2020 Rules for Home Health Agencies in Arkansas

PP. **Visit** – a face-to-face visit in the client’s residence or by the use of information technology.

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SECTION 5. AGENCY LOCATION

- A. No person, partnership, association, corporation, or other organization, whether public or private, proprietary or nonprofit shall provide home health services in the State of Arkansas without a licensed fully operational physical location within the State and a sufficient number of licensed regional offices to adequately service the administrative needs of the agency and the clients. A regional office is required for non-contiguous counties. The authority is vested with Health Facility Services to determine if an agency is subject to regulation under the statute and is inherent in the responsibility to regulate agencies that are within the definitions of the Act.

- B. Branch Office. The agency shall notify the Department in writing in advance of the plan to establish a branch office. Included in the notification shall be a description of the services to be provided (must be the same as the parent agency), the geographic area to be served by the branch office and a description of exactly how supervision by the parent agency will occur. All branch offices shall be subject to approval by Health Facility Services. Once the agency receives approval by Health Facility Services to establish the requested branch office the agency shall notify Health Facility Services of the branch office address, telephone number, and the name of the registered nurse supervisor.
 - 1. Onsite supervision of the branch office shall be conducted by the parent/primary agency at least every two months. The supervisory visits shall be documented and include the date of the visit, the content of the consultation, the individuals in attendance, and the recommendations of the staff. In addition, branch supervision shall include clinical record review of the branch records, inclusion in the agency's quality assurance activities, meetings with the branch supervisor, and home visits.
 - 2. A full-time registered nurse shall be assigned to the branch office and shall be available during all operating hours. This person shall be an employee of the agency.
 - 3. All admissions shall be coordinated through the parent/primary agency and a current roster of patients shall be maintained by the parent agency at all times.
 - 4. A branch office shall offer the same services as those offered by the parent/primary agency.

SECTION 6. EXEMPTIONS

- A. The Act exempts from its licensing requirements persons who hold other licenses or engage in certain limited activities. A person providing home health services, as defined in the Act, in addition to the limited activities for which an exemption would otherwise be available, shall obtain a license to provide the home health care services.
- B. The following persons are not required to be licensed under Ark. Code Ann. § 20-10-802:
1. A physician, dentist, registered nurse, or physical therapist who is currently licensed under the laws of Arkansas who provides home health services only to a patient as a part of his or her private office practice and the services are incidental to such office practice;
 2. The following health care professionals providing home health service as a sole practitioner: a registered nurse, a licensed vocational nurse, a physical therapist, an occupational therapist, a speech therapist, a medical social worker, or any other health care professional as determined by the department;
 3. A non-profit registry operated by a national or state professional association or society of licensed health care practitioners, or a subdivision thereof, that operates solely as a clearinghouse to put consumers in contact with licensed health care practitioners who will give care in a patient's residence and that neither maintains the official patient records nor directs patient services;
 4. An individual whose permanent residence is in the patient's residence;
 5. An employee of a person holding a license under this Act who provides home health services only as an employee of the licensed person and who receives no benefit for providing home health services other than wages from the employer;
 6. A home, nursing home, convalescent home, or other institution for the disabled or aged that provides health services only to residents of the home or institution;
 7. A person who provides one health service through a contract with a person licensed;
 8. A durable medical equipment supply company;

2020 Rules for Home Health Agencies in Arkansas

9. A pharmacy or wholesale medical supply company that furnishes those services to persons in their homes that relate to drugs and supplies;
 10. A hospital or other licensed health care facility serving only inpatient residents; and
 11. A visiting nurse service or home aide service constructed by and for the adherents of a religious denomination for the purpose of providing service for those who depend upon spiritual means through prayer alone for healing.
 12. Persons providing services to one or more developmentally disabled persons, as defined in § 20-48-101, under a license or certificate from the Division of Developmental Disabilities Services of the Department of Human Services.
- C. Claims of exemption under the Act should be presented to Health Facility Services in writing with supporting documentation.

2020 Rules for Home Health Agencies in Arkansas

SECTION 7. APPLICATION FOR LICENSE

- A. Any person, partnership, association, corporation or other organization, whether public or private, proprietary or nonprofit who supplies individuals to provide any of the services listed below shall be considered an agency.
- B. Agencies shall be required to obtain a license if the following services are provided to an individual in their home or place of residence. These services include:
1. Skilled Nursing Services;
 2. Physical Therapy Services;
 3. Occupational Therapy Services;
 4. Speech-Language Pathology Services;
 5. Medical Social Work Services;
 6. Home Health Aide Services;
 7. Personal Care Aide Services;
 8. Extended Care Services.
- C. Prior to applying for a license an agency shall obtain a Permit of Approval (POA). Each agency must serve the area which is consistent with their Certificate of Need (CON) or POA. Only under conditional emergency circumstances approved by Health Facility Services may an agency provide care outside the boundaries of their POA. (See requirements for Conditional Emergency Services, Section 15.)
- D. Annual license applications shall be on forms prescribed by the Department and shall be effective on a calendar year basis with an expiration date of December 31.
1. Each agency shall receive either a Class A or Class B license. If the agency is certified to participate in the Title XVIII Medicare program, a Class A license shall be issued. A class A agency shall meet the Conditions of

Participation as a home health agency under Title XVIII of the Social Security Act and the regulations adopted thereunder (42 Code of Federal Regulations 405.1201 et. seq.), which regulations are adopted by

2020 Rules for Home Health Agencies in Arkansas

reference herein for all purposes. Copies of the regulation adopted by reference in this section are indexed and filed in Health Facility Services, Arkansas Department of Health, 5800 West Tenth, Suite 400, Little Rock, Arkansas 72204, and are available for public inspection during regular working hours.

2. If the agency is not certified to participate in the Medicare program but provides home health services as defined by Ark. Code Ann. § 20-10-801 et. seq., a Class B license shall be issued.
3. Any agency holding a Class A License may obtain a Derivative Class B license from the Department, provided that the agency holding said Class A license meets the licensing standards set forth in Ark. Code Ann. § 20-10-801 et. seq., and the Rules herein for Class B licensure. A Class B license so issued to the holder of a Class A license shall not be severed from the underlying Class A license **nor** separately extended into geographic areas apart from the class A service area. A separate POA from the holder of a Class A license shall not be required by the Health Department in order to issue a Derivative Class B license.
4. Each Class A or Class B license shall designate whether an agency provides the following categories of service: intermittent skilled care, extended care and/or personal care.
5. When a category of service is added the agency shall notify Health Facility Services of the intent. Health Facility Services shall then request from the agency the appropriate information needed to determine if the agency meets the regulatory requirements for the category of service being requested. Once this determination is made Health Facility Services shall make the appropriate changes to the license.
6. If a category of service is being discontinued, the agency shall notify Health Facility Services. Notification must include information on how the agency will ensure appropriate transfer of patients.
7. Each agency that is licensed Class A or Class B shall meet the General Requirements section of these rules. According to services provided, agencies shall also be required to meet other sections as follows:
 - (a) Skilled Care - General Requirements (Section XI), Skilled Care Services (Section XII);
 - (b) Extended Care - General Requirements (Section XI), Skilled Care Services (Section XII), Extended Care Services (Section XIII);

2020 Rules for Home Health Agencies in Arkansas

- (c) Personal Care - General Requirements (Section XI), Personal Care Services (Section XIV).
8. No license shall be issued to operate a branch whose primary agency is not located within the State of Arkansas.
- E. The agency shall notify Health Facility Services of any of the following:
- 1. Change of name;
 - 2. Change of location;
 - 3. Addition or deletion of services provided;
 - 4. Request to change license classification;
 - 5. If a Class A agency, notification of changes in certified status;
 - 6. Change in contact information including correspondence address, telephone number, email, fax number; and
 - 7. Change of ownership.
- F. Agency Closure. If a licensed agency closes it shall:
- 1. Notify Health Facility Services in writing of:
 - a. the effective date;
 - b. plans for transfer of current patients;
 - c. plans for storage and retrieval of medical records; and
 - 2. Return original license to Health Facility Services.

2020 Rules for Home Health Agencies in Arkansas

SECTION 8. INSPECTIONS.

- A. An review and/or inspection shall be conducted before the license is issued.
- B. The addition of a service category to an existing license requires approval by Department.
- C. Agencies applying for licensure will receive an initial inspection. Subsequent inspections will be conducted periodically at least every 3 years.
- B. If the inspection is conducted in order to determine compliance with standards, the agency shall come into compliance within 60 days. An onsite follow-up visit or a follow-up by mail shall be conducted to determine if deficiencies have been corrected.

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SECTION 9. DENIAL, SUSPENSION, REVOCATION OF LICENSE

- A. A home health agency license may be denied, suspended or revoked for one or more of the following reasons:
1. Violation of the provisions of the statute or of any of the standards in these rules;
 2. Misstatement of a material fact on any documents required to be submitted to Health Facility Services or requirements to be maintained by the agency pursuant to these rules;
 3. Commission by the agency or its personnel of a false, misleading, or deceptive act or practice;
 4. Materially altering any license issued by the Department.
 5. An intentional or negligent act by the agency or its employees which materially affects the health and safety of a patient.
- B. If Health Facility Services of the Department proposes to deny, suspend, or revoke a license, the Director shall notify the agency of the reasons for the proposed action and offer the agency an opportunity for a hearing. The agency may request a hearing within 30 days after the date the agency receives notice. The request shall be in writing and submitted to Health Facility Services, Arkansas Department of Health, 5800 West Tenth, Suite 400, Little Rock, Arkansas 72204. A hearing shall be conducted pursuant to the Administrative Procedures Act. If the agency does not request a hearing in writing after receiving notice of the proposed action, the agency is deemed to have waived the opportunity for a hearing and the proposed action shall be taken.
- C. Health Facility Services may suspend or revoke a license to be effective immediately when the health and safety of patients are threatened. Health Facility Services shall notify the agency of the emergency action and shall notify the agency of the date of a hearing, which shall be within seven days of the effective date of the suspension or revocation. The hearing shall be conducted pursuant to the Administrative Procedures Act.

2020 Rules for Home Health Agencies in Arkansas

SECTION 10. TRAINING

- A. Home Health Aide Training
1. Duration of home health aide (HHA) classroom and supervised practical training shall:
 - a. include classroom and supervised practical training under the direct supervision of a registered nurse.
 - b. classroom and supervised practical training must total at least 75 hours and must include a minimum of 16 hours of classroom training prior to the minimum 16 hours of supervised practical training
 2. Content of home health aide training must address the subject areas listed in attached Table 2.
- B. Personal Care Aide Training. Training provided by the agency shall:
1. Include all the topics listed in the attached Table 1;
 2. Be supervised by a registered nurse;
 3. Be a minimum of 40 hours to include classroom and clinical instruction related to the home setting; and
 4. Have written:
 - a. course objectives
 - b. expected outcomes; and
 - c. method(s) of evaluation
- C. All home health aide and personal care aide training must be approved by the Department.
- D. Unless the agency has been properly authorized by the Department of Higher Education to operate a school, training shall be limited to agency employees.

SECTION 11. GENERAL REQUIREMENTS

- A. Policies and Procedures. The agency shall have annually reviewed, written policies including:
1. Organizational
 - (a) A description of the structure showing ownership and lines of authority down to the patient service level;
 - (b) The services offered;
 - (c) Hours of operation;
 - (d) Criteria for patient acceptance, referral, transfer and termination; and
 - (e) An annual operating budget approved by the governing body and/or administrator.
 2. Orientation of all personnel to the policies and objectives of the agency;
 3. Personnel policies;
 4. Procedures for all tasks and patient care;
 5. Reporting changes in patient condition;
 6. Infection control program
 - (a) which has as its goal the prevention and control of the spread of infection and communicable disease.
 - (b) work restrictions according to CDC recommendations
 - (c) measures for prevention of communicable disease outbreaks, especially Mycobacterium Tuberculosis (TB). All plans for the prevention of transmission of TB shall conform to the most current CDC Guidelines for preventing the Transmission of Mycobacterium Tuberculosis in Health Care Facilities.
 7. A personnel record shall be maintained for each employee. A personnel record shall include, but not be limited to, the following:
 - i. job description signed by the employee;

2020 Rules for Home Health Agencies in Arkansas

- ii. qualifications, education, and/or training;
 - iii. application for employment;
 - iv. criminal history checks as required by Ark. Code Ann. § 20-38-101 et. seq.
 - v. verification of licensure, permits, references, job experience, and educational requirements as appropriate;
 - vi. performance evaluations and disciplinary actions; and
 - vii. verification of work history.
8. An agency-wide Quality Assurance and Improvement Program that includes all services for the purpose of monitoring the safety and effectiveness of services and quality of care. The program must include:
- a. client satisfaction surveys;
 - b. supervision of services;
 - c. results of inspections, surveys, and audits from outside entities; and
 - d. performance improvement projects as applicable.
9. Complaints and Incidents. Each agency shall keep a record of complaints and incidents. Documentation shall include:
- a. the names of involved individuals;
 - b. the relationship to the patient;
 - c. the nature of the complaint/incident;
 - d. date of complaint/incident; and
 - e. the action taken to resolve the complaint/incident including referrals to other entities.
- B. Governing Board. A Home Health Agency shall have an organized Governing Board consisting of at least one member, who may be the owner, who shall be legally responsible for maintaining quality client services and establishing policies for the agency, shall be legally responsible for the conduct of the agency and shall establish a mechanism to:

2020 Rules for Home Health Agencies in Arkansas

1. Approve a quality assurance plan whereby problems are identified, monitored and corrected;
2. Adopt and periodically review written bylaws or an acceptable equivalent;
3. Approve written policies and procedures related to safe, qualified and adequate provision of clinical services and operation of the agency.;
4. Appoint an administrator who is an employee of the agency or related institution.
5. Approve a plan for an alternate in the absence of the administrator; and
6. Oversee the management and fiscal affairs of the agency.

C. Administrator Responsibilities. The Administrator shall:

1. Manage the agency's daily on going functions;
2. Employ qualified personnel and ensure appropriate ongoing education and supervision of personnel and volunteers;
3. Ensure the accuracy of public information materials and activities;
4. Implement and monitor the budgeting and accounting system; and
5. Ensure the presence of an alternate administrator to act in the administrator's absence.

D. Services Provided by Contractors

1. An Arkansas licensed home health agency may contract to provide services in the licensed agency's service area provided that administration, patient management and supervision down to the patient care level are ultimately the responsibility of the licensed agency;
2. A contracted entity or contracted individual conforms to all applicable agency policies, including those described in Section 11.A.

E. Patient Rights

1. The agency shall provide each patient and family with a copy of the Bill of Rights affirming the patient's right to:

2020 Rules for Home Health Agencies in Arkansas

- (a) Be informed of the services offered by the agency and those being provided to the patient;
 - (b) Participate in the development of the plan of care and to be informed of the dates and approximate time of service;
 - (c) Receive an explanation of any responsibilities the participant may have in the care process;
 - (d) Be informed of the name of agency and how to contact that agency during all hours of operation;
 - (e) Be informed of the process for submitting and addressing complaints to the agency and be notified of the State Home Health Hotline number;
 - (f) Be informed orally and in writing of any charges which insurance might not cover and for which the patient would be responsible;
 - (g) Courteous and respectful treatment, privacy and freedom from abuse and discrimination;
 - (h) Confidential management of patient records and information;
Access information in the patient's own record upon request;
 - (i) Receive prior notice and an explanation for the reasons of termination, referral, transfer, discontinuance of service or change in the plan of care;
 - (j) Be informed of the right to voice grievances regarding treatment of care that is (or fails to be) furnished, and the lack of respect for property by anyone who is furnishing services on behalf of the agency and the right not to be subjected to discrimination or reprisal for doing so;
 - (k) Control access to the patient's home; and
 - (l) Be free from verbal, mental, sexual, and physical abuse including injuries from unknown source, neglect and misappropriation of property.
2. The agency shall provide each patient and family with a written list of responsibilities affirming the patient's responsibility to:

2020 Rules for Home Health Agencies in Arkansas

- (a) Assist in developing and maintaining a safe environment;
- (b) Treat all agency staff with courtesy and respect;
- (c) Participate in the development and update of the plan of care;
- (d) Adhere to the plan of care or services as developed by the agency and to assist in the care as necessary.

F. Advance Directives

- 1. The agency shall have written policies and procedures regarding advance directives.
- 2. The agency shall inform and distribute written information to each patient on the initial evaluation visit concerning its policies on advance directives. Written information shall include notifying patients of their right to:
 - (a) Make decisions about their medical care;
 - (b) Accept or refuse medical or surgical treatment; and
 - (c) Formulate, at the individual's option, an advanced directive.

G. Records and Documentation

- 1. The home health agency shall maintain records of all services provided to patients which are orderly, intact, legibly written and available and retrievable either in the agency or by electronic means and suitable for photocopying or printing.
- 2. Records shall be stored in a manner which:
 - (a) Prevents loss or manipulation of information;
 - (b) Protects the record from damage; and
 - (c) Prevents access by unauthorized persons.
- 3. Records shall be retained according to State and Federal laws.
- 4. Each record shall include:
 - (a) Assessments and evaluations
 - (b) Plans and assignments;

2020 Rules for Home Health Agencies in Arkansas

- (c) Acknowledgment of receiving information regarding advance directives
 - (d) Date and time employees or contracted individuals are in the home; and
 - (e) Tasks completed.
5. The following shall be included, if applicable;
- (a) Physician, podiatrist and/or licensed practitioner orders;
 - (b) Records of supervisory visits.
 - (c) Medication administration records;
 - (d) Any clinical notes;
 - (e) Records of case conferences; and
 - (f) Discharge summary.
6. Clinical notes are to be written the day the service is rendered and incorporated into the record no less often than every 14 days.
7. Provisions shall be made for the protection of records in the event an agency ceases operation.

SECTION 12. STANDARDS FOR SKILLED CARE SERVICES

In addition to meeting the General Requirements, agencies providing skilled care shall meet the following:

A. Acceptance of Patients

1. Agencies shall only accept patients for treatment on the basis of a reasonable expectation that the patient's needs can be met adequately by the agency in the patient's place of residence.
2. If an agency receives a referral on a patient who requires home health services that are not available at the time of referral, the agency shall contact the referral source and/or the patient's physician or licensed practitioner to let them know the situation. The agency shall only admit the patient if no other agency licensed in the area has the service(s) available.

B. Care and Services

1. All services shall be rendered and supervised by skilled professionals. Skilled services such as nursing, physical therapy, occupational therapy, speech-language pathology, and medical social work shall provide services and supervision according to the scope of practice determined by their applicable licensing board.
2. Assessments:
 - (a) An initial assessment shall be completed within 48 hours of the referral/discharge. The initial assessment shall be completed by a registered nurse, if nursing services are provided, or other skilled professional, as appropriate.
 - (b) For patients receiving skilled services, the assessment shall be updated every 60 days or when a significant change in patient status occurs.
3. Plan of Care:
 - (a) At the time of the admission, the plan of care shall be developed in conjunction with the patient and/or family and the skilled health care professional.
 - (b) Discharge planning shall be the responsibility of the skilled health care professional rendering the service and documented in the record.

- (c) The plan of care shall include potential services to be rendered; the frequency of visits and/or hours of service, assignment of health care providers and the estimated length of services.
 - (d) The plan of care shall be revised at least every 60 days.
 - (e) The plan of care shall be individualized according to each of the individual patient's needs.
 - (f) The plan of care and each verbal order obtained shall be signed by the physician, podiatrist or licensed practitioner within 30 days of the of the order.
- 4. Case conferences shall be held at least every two months on each patient. The clinical record or minutes of these case conferences shall reflect input by the disciplines providing care to the patient.
 - 5. For patients receiving extended care nursing services, a current medication administration record shall be maintained and incorporated into the clinical record. Notation shall be made in the clinical notes of medications not given and reason. Any untoward action shall be reported to the supervisor and documented.
 - 6. The clinical record shall include documentation of medication allergies or sensitivities and medication interactions. There must be a medication profile, including the dose, frequency and route of administration for each prescription medication the patient is receiving.

C. 24 Hour Availability

- 1. If an agency provides 24-hour availability, the agency shall have a registered nurse available after hours. When an agency provides extended care, the agency shall provide 24-hour coverage and availability. A licensed practical nurse may take initial call and perform services as ordered on the plan of care. Any services outside the plan of care must be approved by a registered nurse prior to the services being rendered.
- 2. If 24-hour availability is provided, the agency shall have a policy describing at least the following:

2020 Rules for Home Health Agencies in Arkansas

- (a) How patients will contact the agency after hours; and
 - (b) How the agency will ensure the registered nurse on call has access to all current patient information.
3. If 24-hour availability is not offered by the agency, the agency shall be responsible for assuring each patient is aware of the steps to take in an emergency or unusual situation.

D. Controlled Drugs

1. Agencies shall have a written policy stating how controlled drugs will be monitored if agency staff transports the drugs from the pharmacy to the patient.
2. If controlled drugs are being administered by the agency, there shall be a policy regarding how the drugs will be administered and monitored.

E. Home Health Aide Services

1. A home health aide shall have completed a 75-hour aide training course that meets the requirements set forth in Section 10 of these rules.
2. The agency is responsible for assuring the home health aide has successfully completed competency testing. The competency evaluation must address each of the topics in TABLE 2. The following skills must be evaluated by the registered nurse by observing the aide's performance while carrying out the following tasks with a patient:
 - a. communication skills including the ability to read, write, and verbally report clinical information;
 - b. reading and recording temperature, pulse, and respiration;
 - c. appropriate and safe techniques in performing personal hygiene and grooming tasks that include:
 - i. bed bath;
 - ii. sponge, tub, shower bath;
 - iii. hair shampooing in sink, tub, and bed;
 - iv. nail and skin care;
 - v. oral hygiene;
 - vi. toileting and elimination;
 - d. safe transfer techniques and ambulation; and

2020 Rules for Home Health Agencies in Arkansas

- e. normal range of motion and positioning.
3. A registered nurse shall complete an aide assignment sheet to delegate services according to the State Board of Nursing, for each patient receiving home health aide services.
 4. Each aide caring for the patient shall receive a copy of the assignment sheet.
 5. Provide services as assigned.
 6. A copy of the assignment sheet shall be left in the patient's home.
 7. Each aide assignment sheet shall be individualized and specific according to the patient's needs
 8. The qualified health care professional shall conduct a visit to the patient's place of residence and update the aide assignment sheet:
 - a. every 14 days for the home health aide;
 - b. every 60 days for the personal care aide.
 9. Aides shall receive a minimum of 12 hours of in-service training per 12 months. The in-services provided shall address areas that directly relate to the patient care aspects of the aide's job.

SECTION 13. STANDARDS FOR EXTENDED CARE SERVICES

Extended Care is defined as six or more hours of continuous home health services provided in a 24-hour period, by a licensed agency which provides both skilled nursing and other home health services. (Medicaid Personal Care is not included in the above definition.) In addition to meeting the applicable standards for Class B license, all agencies providing extended care must meet the following:

- A. Shall make available in writing the hours of service and provide a registered nurse supervisor or a registered nurse and supervisor for consultation and triage at least during those hours. The agency shall be responsible for assuring that each patient, or guardian if the patient is mentally incompetent, is aware of the steps to take in an emergency or unusual situation. The agency must have a contingency plan regarding how the case is managed if a scheduled employee is unable to staff the case;
- B. The patient's permanent medical record shall be available at the licensed agency location that has been approved by Health Facility Services to provide the services;
- C. A medical record must also be maintained in the home if a patient is receiving skilled extended care.
 - 1. The record must contain:
 - (a) Current plan of treatment (physician's or licensed practitioner orders);
 - (b) Medication profile;
 - (c) Clinical notes;
 - (d) Documentation of any medication administered by agency staff including the date, time, dosage and the manner of administration;
 - (e) Any other information deemed necessary by the licensed agency.
 - 2. The information included in the home record must be filed in the permanent medical record at least every two weeks if it is not already included in the permanent record.
 - 3. If extended care aide service is the only service being provided, a home record is not required. Written instructions for the aide service must be maintained in the home and in the permanent record;
- D. For patients receiving skilled extended care, a visit must be made to the patient's

2020 Rules for Home Health Agencies in Arkansas

home by a registered nurse, who is an employee of the licensed agency, no less frequently than every two weeks to supervise the services being provided. Patients requiring extended care services beyond three months and classified by the licensed agency as chronic/stabilized will require supervision once every month. For patients receiving extended care aide services only, the aide must be continually supervised and a visit must be made to the patient's home by a registered nurse at least every 30 days;

- E. The agency must have an orientation plan for the staff providing the care to the patients. Since extended care cases may involve highly technical services, this plan must reflect how the agency ensures that the individuals providing the extended care are qualified to provide these types of services;
- F. Prior to withdrawing skilled nursing services for an extended care patient the home health agency shall:
 - 1. Provide evidence that ongoing efforts were made to recruit staff or place with another agency; and
 - 2. Give the patient/family at least 60 days notice, in writing, of the intent to discharge the patient.

Rules for Home Health Agencies in Arkansas

SECTION 14. STANDARDS FOR PERSONAL CARE SERVICES

A. All Services

1. The agency shall:
 - a. Perform an initial evaluation visit and determine:
 - i. the needs and condition of the client;
 - ii. the services to be provided; and
 - iii. the personnel to provide the services.
 - b. Develop the aide service plan which shall:
 - i. outline the services;
 - ii. determine scope and frequency of visits;
 - iii. assign appropriate delegation of services consistent with the AR State Board of Nursing; and
 - iv. determine supervision scope and frequency. Frequency shall be at least annually.
 - c. The Aide shall report changes in the needs and condition of the client.

B. Personal Care Services:

1. Delegated through the use of an Aide Service plan;
2. Each aid shall receive a copy of the Aide Service plan;
3. A copy of the Aide Service plan shall be left in the home;
4. The Aide Service plan shall be individualized and specific;
5. Aides shall receive a minimum of 12 hours of in-service training per 12 months. The in-services provided shall address areas that directly relate to the client care aspect of the aide's job.

SECTION 15: CONDITIONAL EMERGENCY SERVICE

A. Conditional Emergency Service

1. Notwithstanding the provisions of these Rules, Health Facility Services shall be empowered to permit the provision of skilled care.
 - (a) Certifies that the patient requires conditional emergency services which shall be defined as; a medically indicated skilled care case in which the patient requires specialized care of a registered nurse or a licensed practical nurse under the supervision of a registered nurse, not available through licensed agencies in the area and which, if not provided, would result in the patient being institutionalized;
 - (b) Furnishes such information on forms prescribed by the Department regarding the patients receiving conditional emergency services that would include but not be limited to:
 - (1) Name of patient;
 - (2) Address of the patient;
 - (3) Diagnosis;
 - (4) The type of specialized skilled extended care the patient requires and why the patient would require institutionalization if the care was not provided;
 - (c) Furnishes information to the Department ensuring that all agencies whose extended care licensed area encompasses the location of the patient were contacted to determine if the required services could be provided. Such information should include the name of the agency contacted, the name of the person contacted, the date and time of the contact, and the reason given for not being able to provide the care. If the agency contacted does not respond with an answer within 24 hours of the initial contact the agency seeking to provide the services may proceed as required. The lack of response should be noted in the information furnished to the Department.
2. In each case Health Facility Services shall maintain a file or register concerning the Conditional Emergency Service and notify both the Health Services Agency and any licensed providers whose extended care geographical area includes the location of the service.

2020 Rules for Home Health Agencies in Arkansas

3. The approval will be for a period of 180 days. For each consecutive 180-day period thereafter, the agency will be required to submit documentation as required in G.
4. If, at the end of each 180-day period services are available through an agency licensed for the area, the agency providing the service must notify the patient/caregiver of the availability of services through a licensed agency in the area and offer the opportunity to transfer.
5. The choice of transfer shall be the patient/caregiver's decision.
6. An agency operating outside their licensed service area must provide documentation to the Department at the beginning of each 180-day period that the patient was informed of any new agencies providing extended care services in the area and was given the choice of transferring. The information shall be submitted on forms prescribed by the Department.
7. An agency operating outside their licensed geographic area to provide extended care may provide all services required by the patient until such time the skilled extended care is discontinued or the patient is transferred to an agency licensed to provide extended care services in the area. The discharging agency will be responsible for referring the patient to an agency licensed to serve the area in which the patient resides if the patient requires further service.

SECTION 16: Severability

If any provision of these Rules, or the application thereof to any person or circumstances is held invalid, such provisions or applications of these Rules that can give effect without the invalid provisions or applications will be enforced, and to this end the provisions hereto are declared to be severable.

DRAFT

2020 Rules for home Health Agencies in Arkansas

TABLE 1

Personal Care Aide training for employees course and clinical work topics shall include, but not be limited to:

- A. Body Functions;
- B. Body Mechanics & Safety Precautions;
- C. Communication Skills;
- D. Health conditions including Dementia and Alzheimer's;
- E. Emergency recognition and procedures;
- F. Household safety and fire;
- G. Infection control;
- H. Ethical considerations and state law regarding Nurse delegation;
- I. Nutrition;
- J. Ambulation;
- K. Household services for healthcare to include basic housekeeping procedures and laundry;
- L. Bathing, shampooing, shaving;
- M. Personal grooming to include dressing and undressing;
- N. Meal preparation and clean up;
- O. Oral hygiene;
- P. Normal range of motion;
- Q. Toileting;
- R. Transfer techniques;
- S. Recordkeeping and documentation to include reporting changes to appropriate supervisor;
- T. Role of caregiver in team; and
- U. Nail and skin care.

2020 Rules for Home Health Agencies in Arkansas

TABLE 2

Home Health Aide training for employees course and clinical work topics shall include, but not be limited to:

- A. Communication skills, including the ability to read, write, and verbally report clinical information to patients, representatives, and caregivers, as well as to other HHA staff.
- B. Observation, reporting, and documentation of patient status and the care or service furnished.
- C. Reading and recording temperature, pulse, and respirations.
- D. Basic infection prevention and control procedures.
- E. Basic elements of body functioning and changes in body function that must be reported to an aide's supervisor.
- F. Maintenance of a clean, safe, and healthy environment.
- G. Recognizing emergencies and the knowledge of instituting emergency procedures and their application.
- H. The physical, emotional, and developmental needs of and ways to work with the population served by the HHA, including the need for respect for the patient, his or her privacy, and his or her property.
- I. Appropriate and safe techniques in performing personal hygiene and grooming tasks that include:
 1. Bed bath;
 2. Sponge, tub, and shower bath;
 3. Hair shampooing in sink, tub, and bed;
 4. Nail and skin care;
 5. Oral hygiene; and
 6. Toileting and elimination;
- J. Safe transfer techniques and ambulation;
- K. Normal range of motion and positioning;

2020 Rules for Home Health Agencies in Arkansas

- L. Adequate nutrition and fluid intake;
- M. Recognizing and reporting changes in skin condition; and
- N. Any other task that the HHA may choose to have an aide perform as permitted under state law.

2020 Rules for Home Health Agencies in Arkansas

CERTIFICATION

This will certify that the foregoing revisions to the 2020 Rules for Home Health Agencies in Arkansas were promulgated by the State Board of Health of Arkansas at a regular session of said Board held in Little Rock, Arkansas on the _____ day of _____, 2020.

Nate Smith, M.D., MPH
Secretary of Health

QUESTIONNAIRE
FOR FILING PROPOSED RULES WITH THE
ARKANSAS LEGISLATIVE COUNCIL

DEPARTMENT/AGENCY _____
DIVISION _____
DIVISION DIRECTOR _____
CONTACT PERSON _____
ADDRESS _____
PHONE NO. _____ FAX NO. _____ E-MAIL _____
NAME OF PRESENTER AT COMMITTEE MEETING _____
PRESENTER E-MAIL _____

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Rule" below.
- E. Submit two (2) copies of the Questionnaire and Financial Impact Statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Jessica C. Sutton
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201

- 1. What is the short title of this rule?

- 2. What is the subject of the proposed rule?

- 3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No
If yes, please provide the federal rule, regulation, and/or statute citation.

- 4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?
Yes No
If yes, what is the effective date of the emergency rule? _____

When does the emergency rule expire? _____

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes No

5. Is this a new rule? Yes No If yes, please provide a brief summary explaining the rule.

Does this repeal an existing rule? Yes No If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes No If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled “mark-up.”

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation.

7. What is the purpose of this proposed rule? Why is it necessary?

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).

9. Will a public hearing be held on this proposed rule? Yes No If yes, please complete the following:

Date: _____

Time: _____

Place: _____

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice. _____

13. Please provide proof of filing the rule with the Secretary of State as required pursuant to Ark. Code Ann. § 25-15-204(e). _____

14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT _____
DIVISION _____
PERSON COMPLETING THIS STATEMENT _____
TELEPHONE NO. _____ FAX NO. _____ EMAIL: _____

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two (2) copies with the Questionnaire and proposed rules.

SHORT TITLE OF THIS RULE

1. Does this proposed, amended, or repealed rule have a financial impact? Yes No

2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
Yes No

3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If an agency is proposing a more costly rule, please state the following:

- a) How the additional benefits of the more costly rule justify its additional cost;

- b) The reason for adoption of the more costly rule;

- c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and

- d) Whether the reason is within the scope of the agency's statutory authority, and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Total _____

b) What is the additional cost of the state rule?

Current Fiscal Year

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Total _____

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ _____

\$ _____

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ _____

\$ _____

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?
Yes No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

Summary/Index
Home Health Rules
09052019

Section, page	Change	Source of specific authority with page & line or reason for change
Table of Contents		
TOC §5	Rename as Agency Location Eliminate Unregulated Agency	Section specifies physical location, regional offices ACT 801 and Branch offices for Medicare Certified agencies. Unregulated agency is a criminal offense. License is the linkage to administrative oversight.
§10	Rename as Training Eliminate Branch Office	Clarify rules for aide training Branch office moved to Agency Location
§15	Move from Section 13 to Conditional Emergency Permits	Moved from Extended Care so services may be available for all skills and all populations. Requested by POA. e.g. respiratory therapy for pediatrics
§16	Add "Severability"	Protect remaining rules if any section invalid
§1 Preface		
§2 Authority		
§3 Purpose		
§4 Definitions		
p.4.1 B B C E G	Eliminate " assistance with medication " Add "aide assignment sheet/aide service plan" Add Medicare certified Add contiguous counties of the POA Delete portion of " total geographic area... " Delete " within a 50-mile radius " Add clinical manager Delete " in accordance with acceptable medical standards "	Defer to ASBN – nursing scope of practice term Term used in Rules To specify only Class A agencies To specify service area Unnecessary language Remove unnecessary mileage requirement, technology advances Term defined in CoP To be applicable to all services

Summary/Index
Home Health Rules
09052019

p. 4.3	Delete “ geographic area ”	Remove unnecessary mileage requirement, technology advances
P.	Delete “ personal care aide ”	Separately defined
R,S,T,W,X, BB,FF,GG LL,RR,SS	Delete licensed type professionals	Consolidated in “skilled professional”
T	Added, “Medicare certified”	Specify Class A agency for Branch office supervision
AA	Removed “ sick and debilitated ”	Updated language
BB	Personal Care Aide definition	To differentiate from Home Health Aide
DD	Removed unnecessary language	
EE	Added “by a qualified practitioner”	To expand flexibility
II	Moved to §5 Agency Location	
JJ	Deleted “ psychiatric nurse ”	Term not used in Rules
KK	Deleted 50 mile radius requirement	Unnecessary mileage requirement, technology advances
LL	Clarified skilled care services	To align with CoP
MM	Added “skilled professional”	Term used in Rules and aligns with CMS regulation
TT	Removed	No longer a licensed category; aligns with CoP and Act. 811 of 2019
p. 4.7 NN	Simplified to “within scope of practice”	Add flexibility and Act 811 of 2019
OO	Added definition of Supervisor	Align with CoP and Act 811 of 2019
PP	Added definition of Visit	For clarity and flexibility
	§5 Agency Location	
p.5-1	Add “sufficient number of licensed regional offices to adequately service	ACT 801

Summary/Index
Home Health Rules
09052019

§A	the administrative needs of the agency and the patients. A Regional Office is required for non-contiguous counties.	Establish service area based on agency POA
§B	Delete	Already stated in Section 6. Duplicate language
§C	Delete	Already stated in Section 6. Duplicate language
p. 5-1 p. 5-2 B	Branch office	Moved to clarify and simplify. CoP requirements. For Medicare certified only. See definition.
§6 Exemptions		
p.6-2 §C	Clarify	
§D	Delete	HFS requirement
§7 Application for License		
p. 7-1 §C	Remove 50 mile radius. Clarify Conditional Emergency Services	
§D	Remove Temporary License	
p.7-3 §G §H 1-8	Clean up and consolidate notice requirements;	
p.7-4 §F	Add notice and requirements for Agency closing	Maintain continuity and reduce fraud
§8 Inspections		
p.7-1 §A	Strike “on-site” [initial] inspection, clarify and simplify initial review/inspection required before license is issued	Allow for technology used to expedite initial inspections; focus/save resources
§B	Clarify and remove unnecessary language	Clarify and simplify
§B	Consolidate and simplify inspection schedule to “no less than” every 3 years. Eliminate sub-parts.	Clarify and simplify; match CoP

Summary/Index
Home Health Rules
09052019

§C	Delete duplicate language	See Section §9 Denial, Suspension, Revocation
	§9 Denial, Suspension, Revocation of License	
p. 9-1 §A, C1	Delete unnecessary language	Simplify No “suspensions”
§B 1-4	Simplify language	Adds focus and clarity for agencies and surveyors
	§10 Training	
p. 10-1 §A-E §A §B	Rename Section Branch Offices to <u>Training</u> Delete and move content regarding Branch offices Add “home health aide training” requirements Add “personal care aide training”	Specify for intra-agency training requirements Moved to §5 Agency Location CoP; specify for intra-agency training requirements for subjects, supervision, amount, and form specify for intra-agency training requirements for subjects, supervision, amount, and form
p. 10-2 §C §D	Add approval by Department Specify that HHA must be authorized by Higher Ed to offer training to non-employees	All services must be approved Resource for HHA
	§11 General Requirements	
p. 11-1 §A	Change “policies” to policies <u>and procedures</u> Reorder-improve clarity and brevity Non-substantive language eliminated	To clarify

Summary/Index
Home Health Rules
09052019

	Remove excess content Add procedures for all tasks and patient care Eliminate detailed personnel policy requirements Add reporting changes in patient condition	To eliminate duplication Substantive add to assure safe care Personnel policies not required in other agencies To assure safe care
p. 11-2 A6.a-c A7a.i. 7a.ii. 7 a.vii 3	Infection control program description Add "signed by employee" Add "education and/or training" Remove letters of commendation Add verification of work history Consolidated into §6, Infection Control	Consolidate for ease of use by agencies and surveyors. Uses Medicare language. Accountability of employee. Verification of qualifications. Unnecessary language. Verification of qualifications. Simplified and updated
p. 11-3 8 9	Add QA moved from §11P and added requirements for documentation	Moved from §11D; simplified and consolidated. Clarified and consolidated
p. 11-4 B B1 B1c-f 2-C p.4-6	Body to Board Added explanatory language Clarified governing board requirements Removed language Reworked language to clarify and simplify administrator's implementation responsibilities as distinguished from governing body board	Simplify Clarify clarity duplication
p. 11-6 D2 2	Consolidated requirement. Removed excessive language	Clarify Simplify. All language is in current CoP

Summary/Index
Home Health Rules
09052019

Ø p11.6-8	Moved to §11.A.8	Clarify
p. 11-9 E.k	Add "control access to client's home"	Provider to refrain from bringing others to client's home
E.l	Add "be free from... abuse including injury..., neglect and misappropriation of property"	Patient safety; matches CoP
p. 11-15 G-M	Consolidated and moved content to § 12 Skilled Services	Reorganization of Licensure requirements
p. 11-17 H.1	Add "all services provided"	Ensure complete record
H.3	Struck specific requirements, added according to laws	Define authority
H.4.a-f	Reorganized record requirements	Clarity, fraud reduction, accuracy
p. 11-18 Ø	Moved to §12	Skilled services requirement
P	Moved to §11.A	Reorganization of policy requirements
	§Section 12 Standards for Skilled Care Services	
p. 12-1 B	Consolidated from §11.G Services and added scope of practice by licensing board	Clarify skilled services and supervision
B.2-3	Reorganized new headings, "Assessment/Plan of Care"; clarified time-frames for differing assessments	Consolidated and clarified from §11: Services
p. 12-3&4 E.1-9	Moved from §11.G: Services	Home Health Aides are part of "skilled" services
E.2.a-e	Specified requirements for competency evaluation	CoP

Summary/Index
Home Health Rules
09052019

	§Section 13 Standards for Extended Care Services	
p. 13-2 E	Deleted "Contracting for Extended Care"	Duplicated (§11.D)
p.13.3-5	Moved to new §15: Conditional Emergency Services	Reorganization
	§Section 14 Standards for Personal Care Services	
p. 14.1 A-G A-B	Per Act 811 Consolidated original language; removed RN, 62 day supervision	Consolidate and simplify Consolidate and simplify per Act. 811
	§Section 15 Conditional Emergency Service	
p. 15-1 A.1.a	Removed "extended". Added "skilled"	Per Health Services Permit Agency request for specific populations, i.e. pediatric.
	§Section 16 Severability	
p. 16.1	Added severability language	Protect remaining rules if any section invalid
	§TABLES	
TABLES 1&2	Add required topics for training	For agency provided training