

DEPARTMENT OF HEALTH, STATE BOARD OF HEALTH

SUBJECT: Rules for Home Health Agencies in Arkansas

DESCRIPTION: The following changes to the Rules for Home Health Agencies in Arkansas are proposed:

- Section 11.H. – added requirement for written notice for attacking a healthcare professional. (Act 313)
- Section 11.I. – added requirement regarding healthcare provider not misleading the public regarding licensure. (Act 830)
- Table 1-1. – added training requirements for Alzheimer’s disease and dementia for Personal Care Aides. (Act 70)
- Table 2-1. – added training requirements for Alzheimer’s disease and dementia for Home Health Aides. (Act 70)

PUBLIC COMMENT: No public hearing was held on this rule. The public comment period expired on February 28, 2024. The agency indicated that it received no comments.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that this rule has no financial impact.

LEGAL AUTHORIZATION: The State Board of Health shall promulgate “such rules and standards as may be necessary for the accomplishment of the purposes of” Title 20, Chapter 10, Subchapter 8 of the Arkansas Code, regarding home healthcare services. Ark. Code Ann. § 20-10-806(b)(1). These rules implement Acts 70, 313, and 830 of 2023.

Act 70, sponsored by Representative Julie Mayberry, required a specific number of hours of dementia training for home caregivers.

Act 313, sponsored by Senator Kim Hammer, required posting of a written notice that attacking a healthcare professional is a felony and allowed a healthcare professional to use a work address when reporting certain offenses.

Act 830, sponsored by Representative Lee Johnson, amended the Patient Right-to-Know Act.

**QUESTIONNAIRE FOR FILING PROPOSED RULES WITH
THE ARKANSAS LEGISLATIVE COUNCIL**

DEPARTMENT _____
 BOARD/COMMISSION _____
 BOARD/COMMISSION DIRECTOR _____
 CONTACT PERSON _____
 ADDRESS _____
 PHONE NO. _____ EMAIL _____
 NAME OF PRESENTER(S) AT SUBCOMMITTEE MEETING _____
 PRESENTER EMAIL(S) _____

INSTRUCTIONS

In order to file a proposed rule for legislative review and approval, please submit this Legislative Questionnaire and Financial Impact Statement, and attach (1) a summary of the rule, describing what the rule does, the rule changes being proposed, and the reason for those changes; (2) both a markup and clean copy of the rule; and (3) all documents required by the Questionnaire.

If the rule is being filed for permanent promulgation, please email these items to the attention of Rebecca Miller-Rice, miller-ricer@blr.arkansas.gov, for submission to the Administrative Rules Subcommittee.

If the rule is being filed for emergency promulgation, please email these items to the attention of Director Marty Garrity, garritym@blr.arkansas.gov, for submission to the Executive Subcommittee.

Please answer each question completely using layman terms.

1. What is the official title of this rule?

2. What is the subject of the proposed rule? _____
3. Is this rule being filed under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, please attach the statement required by Ark. Code Ann. § 25-15-204(c)(1).

If yes, will this emergency rule be promulgated under the permanent provisions of the Arkansas Administrative Procedure Act? Yes No

4. Is this rule being filed for permanent promulgation? Yes No

If yes, was this rule previously reviewed and approved under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, what was the effective date of the emergency rule? _____

On what date does the emergency rule expire? _____

5. Is this rule required to comply with a *federal* statute, rule, or regulation? Yes No

If yes, please provide the federal statute, rule, and/or regulation citation.

6. Is this rule required to comply with a *state* statute or rule? Yes No

If yes, please provide the state statute and/or rule citation.

7. Are two (2) rules being repealed in accord with Executive Order 23-02? Yes No

If yes, please list the rules being repealed.

If no, please explain.

8. Is this a new rule? Yes No

Does this repeal an existing rule? Yes No

If yes, the proposed repeal should be designated by strikethrough. If it is being replaced with a new rule, please attach both the proposed rule to be repealed and the replacement rule.

Is this an amendment to an existing rule? Yes No

If yes, all changes should be indicated by strikethrough and underline. In addition, please be sure to label the markup copy clearly as the markup.

9. What is the state law that grants the agency its rulemaking authority for the proposed rule, outside of the Arkansas Administrative Procedure Act? Please provide the specific Arkansas Code citation(s), including subsection(s).

10. Is the proposed rule the result of any recent legislation by the Arkansas General Assembly?
Yes No

If yes, please provide the year of the act(s) and act number(s).

11. What is the reason for this proposed rule? Why is it necessary?

12. Please provide the web address by which the proposed rule can be accessed by the public as provided in Ark. Code Ann. § 25-19-108(b)(1).

13. Will a public hearing be held on this proposed rule? Yes No

If yes, please complete the following:

Date: _____

Time: _____

Place: _____

Please be sure to advise Bureau Staff if this information changes for any reason.

14. On what date does the public comment period expire for the permanent promulgation of the rule? Please provide the specific date. _____

15. What is the proposed effective date for this rule? _____

16. Please attach (1) a copy of the notice required under Ark. Code Ann. § 25-15-204(a)(1) and (2) proof of the publication of that notice.

17. Please attach proof of filing the rule with the Secretary of State, as required by Ark. Code Ann. § 25-15-204(e)(1)(A).

18. Please give the names of persons, groups, or organizations that you anticipate will comment on these rules. Please also provide their position (for or against), if known.

19. Is the rule expected to be controversial? Yes No

If yes, please explain.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEPARTMENT _____
BOARD/COMMISSION _____
PERSON COMPLETING THIS STATEMENT _____
TELEPHONE NO. _____ **EMAIL** _____

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

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 no, please explain:

(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 reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

(d) whether the reason for adoption of the more costly rule is within the scope of the agency’s statutory authority, and if so, how.

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

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

Total _____

Next Fiscal Year

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

Total _____

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

Current Fiscal Year

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

Total _____

Next Fiscal Year

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

Total _____

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

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

6. What is the total estimated cost by fiscal year to a state, county, or 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.

**Cover Summary of Proposed Administrative Rules/Regulation
Arkansas Department of Health**

DIVISION Center for Health Protection; Licensing and Regulation Branch;
 Health Facility Services Section
ADDRESS 5800 W. 10th Street, Suite 400 Little Rock, AR 72204
CONTACT Paula Day
PHONE NUMBER 501-661-2201
DATE September 12, 2023

SHORT TITLE OF THIS RULE: *Rules for Home Health Agencies in Arkansas*

1. Subject: Rule revisions for Acts 70, 313, 830
2. Amends existing rules
3. Authority: Ark. Code Ann. § 20-10-801 *et seq.*
4. Purpose:
 - *To amend the aide training requirements to include Alzheimer’s disease and dementia (Act 70)*
 - *To require posting of a written notice that attacking a healthcare professional is a felony (Act 313)*
 - *To amend the patient right to know regarding licensure of a healthcare provider (Act 830)*
5. Changes as listed:
 - Section 11.H. – added requirement for written notice for attacking a healthcare professional.
 - Section 11.I. – added requirement regarding healthcare provider not misleading the public regarding licensure.
 - Table 1-1. – added training requirements for Alzheimer’s disease and dementia for Personal Care Aides.
 - Table 2-1. - added training requirements for Alzheimer’s disease and dementia for Home Health Aides.
6. Financial impact: No financial impact.
7. Public Hearing: *N/A; Public comment period 12/01/2023 to 12/31/2023(est.)*
8. Proposed effective date: *March 1, 2024*

A strike-through copy of the proposed changes is attached.

NOTICE OF PUBLIC COMMENT PERIOD

The Arkansas Department of Health (ADH) is accepting public comments on the Rules for Home Health Agencies in Arkansas from January 29, 2024 to February 28, 2024. The comment period is provided to allow interested parties and the public to provide any comments. The proposed rule revision with a summary of changes can be viewed online at <https://www.healthy.arkansas.gov/proposed-amendment-to-existing-rules> or you may request a copy from our office at 501-661-2201.

Comments on the proposed changes can also be mailed to Arkansas Department of Health, Attention: Paula Day, Section Chief, 5800 West 10th Street, Ste 400, Little Rock, Arkansas, 72204, or emailed to paula.day@arkansas.gov.

ARKANSAS STATE BOARD OF HEALTH

RULES FOR HOME HEALTH AGENCIES IN ARKANSAS



Promulgated under the Authority of: 20-10-801 et. seq.

Revision effective date: **August 4, 2022**

ARKANSAS DEPARTMENT OF HEALTH HEALTH FACILITY SERVICES

Arkansas Department of Health
Renee Mallory, RN, BSN,
Interim Secretary of Health

Jennifer Dillaha, MD
Director and State Health Officer

Rules for Home Health Agencies in Arkansas

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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.

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.

Rules for Home Health Agencies in Arkansas

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.

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, other than the Arkansas primary agency's principal office location, from which a home health agency provides services within its geographic service area. The primary agency provides direct support and administrative control of its branches.
- D) **Certified Agency** - A home health agency which is primarily engaged in providing skilled nursing services and other therapeutic services and is licensed pursuant to State law. The 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 incorporated by reference herein for all purposes.
- 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.
- 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.

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- 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 licensed healthcare professional.
- 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.
- S) **Maintenance** - To keep in an existing state.
- T) **Parent Agency** - The Medicare certified agency physically located within the state that develops and maintains administrative control of branches.
- 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.
- V) **Personal Care** - Medically prescribed health related assistance in activities of daily living, hygiene and grooming.
- W) **Personal Care Aide** - A person with training as defined in Section 10. B. who provides personal care services for a person in their home.
- X) **Physician** - A person who is currently licensed under the Arkansas Medical Practices Act.
- Y) **Place of Business** - Any office of a home health agency that maintains home health service patient records or directs home health services.
- Z) **Plan of Care** - A written plan which specifies scope, frequency and duration of services that is signed by a qualified practitioner.

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- AA) **Preventive** - To keep from happening or existing.
- BB) **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.
- CC) **Rehabilitative** - To restore or bring to a condition of health or useful and constructive activity.
- DD) **Residence** - A place where a person resides, including a home, nursing home, residential care facility or convalescent home for the disabled or aged.
- EE) **Restorative** - Something that serves to restore to consciousness, vigor or health.
- FF) **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) and up to 100-miles of the primary and/or branch office.
- GG) **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,
- HH) **Skilled Professional** - a person licensed and trained to provide skilled services according to their applicable licensing board.
- II) **Supervision**-Authoritative procedural guidance by a qualified person, acting within his or her applicable scope of practice to a function or activity.
- JJ) **Supervisor**-A skilled professional or one who has completed two years of fulltime 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.
- KK) **Visit** - a face-to-face visit in the client's residence or by the use of information technology.

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. Each agency office will be located within the geographic area identified in the Certificate of Need (CON) or Permit of Approval (POA) and may provide services up to 100-miles of the Parent Agency or Branch office.

- B) Branch Office. The parent home health agency shall submit an application to notify the Department in advance of the plan to establish a branch office by completing the Home Health Agency Notification for Branch Office form (See Form HHA-001). Included in the notification application shall be a description of the services to be provided, 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 survey by Health Facility Services.
 - 1) The parent agency must provide direct support and administrative control of its branches to include:
 - (a) Board of Directors or other corporate governing body oversight;
 - (b) Contracted services;
 - (c) Quality assurance and performance improvement plan;
 - (d) Policy and procedure implementation;
 - (e) Staffing;
 - (f) Human Resource management;
 - (g) Disposition of closed clinical records; and
 - (h) Staff training.

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;
 - 9) A pharmacy or wholesale medical supply company that furnishes those services to persons in their homes that relate to drugs and supplies;

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- 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.

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 and may serve up to 100-mile radius of the parent agency or branch office. 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 reference herein for all purposes.
 - 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.

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- 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 11), Skilled Care Services (SECTION 12);
 - (b) Extended Care - General Requirements (SECTION 11), Skilled Care Services (SECTION 12), Extended Care Services (SECTION 13);

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(c) Personal Care - General Requirements (SECTION 11), Personal Care Services (SECTION 14).

- 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.

SECTION 8. INSPECTIONS.

- A) A 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.
- D) 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.

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.

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) Agency-wide Infection control program:
 - (a) which has as its goal the prevention and control of the spread of infection and communicable disease;
 - (b) which has work restrictions according to CDC recommendations; and,
 - (c) has 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:
 - (a) job description signed by the employee;
 - (b) qualifications, education, and/or training;
 - (c) application for employment;

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- (d) criminal history checks as required by Ark. Code Ann. § 20-38-101 et. seq.;
 - (e) verification of licensure, permits, references, job experience, and educational requirements as appropriate;
 - (f) performance evaluations and disciplinary actions; and
 - (g) 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:
- 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.;

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- 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:
 - (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;

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- (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;
 - (i) Access information in the patient's own record upon request
 - (j) Receive prior notice and an explanation for the reasons of termination, referral, transfer, discontinuance of service or change in the plan of care;
 - (k) 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) Control access to the patient's home; and
 - (m) 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;

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

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7) Provisions shall be made for the protection of records in the event an agency ceases operation.

H) A written notice of the felony status under A.C.A §5-13-202 of attacking a healthcare worker shall be posted in all public entrances and patient waiting area of the healthcare facility utilizing the digital poster available on the Arkansas Department of Health website.

H)I) A healthcare provider shall not mislead any patient regarding the healthcare provider's licensure status.

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) 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) 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.

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- (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:
 - (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.

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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
 - (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.

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- 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.
 - (c) 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; and,
 - (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 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

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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.

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:
 - (i) Name of patient;
 - (ii) Address of the patient;
 - (iii) Diagnosis;
 - (iv) 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.
- 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

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- 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.

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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~~

~~E.~~ ~~Dementia and~~ Alzheimer's disease and dementia (4 hours) to include:

a. Communication Skills;

b. Problem solving with challenging behaviors;

c. Assistance with daily living; and

a.d. explanation of Alzheimer's disease and other dementia;

~~D.F.~~ Emergency recognition and procedures;

~~E.G.~~ Household safety and fire;

~~F.H.~~ Infection control;

~~G.I.~~ Ethical considerations and state law regarding Nurse delegation;

~~H.J.~~ Nutrition;

~~I.K.~~ Ambulation;

~~J.L.~~ Household services for healthcare to include basic housekeeping procedures and laundry;

~~K.M.~~ Bathing, shampooing, shaving;

~~L.N.~~ Personal grooming to include dressing and undressing;

~~M.O.~~ Meal preparation and clean up;

~~N.P.~~ Oral hygiene;

~~O.Q.~~ Normal range of motion;

~~P.R.~~ Toileting;

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~~Q.S.~~ Transfer techniques;

~~R.T.~~ Recordkeeping and documentation to include reporting changes to appropriate supervisor;

~~S.U.~~ Role of caregiver in team; and

~~T.V.~~ Nail and skin care.

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;
- L. Adequate nutrition and fluid intake;

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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.

O. Alzheimer's disease and dementia (4 hours) to include;

a. Communication skills;

b. Problem solving with challenging behaviors;

c. Assistance with daily living; and

~~a.~~d. Explanation of Alzheimer's disease and other dementia.

ARKANSAS STATE BOARD OF HEALTH

RULES FOR HOME HEALTH AGENCIES IN ARKANSAS



Promulgated under the Authority of: 20-10-801 et. seq.

Revision effective date:

ARKANSAS DEPARTMENT OF HEALTH HEALTH FACILITY SERVICES

**Arkansas Department of Health
Renee Mallory, RN, BSN,
Secretary of Health**

**Jennifer Dillaha, MD
Director and State Health Officer**

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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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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.

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, other than the Arkansas primary agency's principal office location, from which a home health agency provides services within its geographic service area. The primary agency provides direct support and administrative control of its branches.
- D) **Certified Agency** - A home health agency which is primarily engaged in providing skilled nursing services and other therapeutic services and is licensed pursuant to State law. The 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 incorporated by reference herein for all purposes.
- 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.
- 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.

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- 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 licensed healthcare professional.
- 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.
- S) **Maintenance** - To keep in an existing state.
- T) **Parent Agency** - The Medicare certified agency physically located within the state that develops and maintains administrative control of branches.
- 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.
- V) **Personal Care** - Medically prescribed health related assistance in activities of daily living, hygiene and grooming.
- W) **Personal Care Aide** - A person with training as defined in Section 10. B. who provides personal care services for a person in their home.
- X) **Physician** - A person who is currently licensed under the Arkansas Medical Practices Act.
- Y) **Place of Business** - Any office of a home health agency that maintains home health service patient records or directs home health services.
- Z) **Plan of Care** - A written plan which specifies scope, frequency and duration of services that is signed by a qualified practitioner.

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- AA) **Preventive** - To keep from happening or existing.
- BB) **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.
- CC) **Rehabilitative** - To restore or bring to a condition of health or useful and constructive activity.
- DD) **Residence** - A place where a person resides, including a home, nursing home, residential care facility or convalescent home for the disabled or aged.
- EE) **Restorative** - Something that serves to restore to consciousness, vigor or health.
- FF) **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) and up to 100-miles of the primary and/or branch office.
- GG) **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,
- HH) **Skilled Professional** - a person licensed and trained to provide skilled services according to their applicable licensing board.
- II) **Supervision**-Authoritative procedural guidance by a qualified person, acting within his or her applicable scope of practice to a function or activity.
- JJ) **Supervisor**-A skilled professional or one who has completed two years of fulltime 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.
- KK) **Visit** - a face-to-face visit in the client's residence or by the use of information technology.

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. Each agency office will be located within the geographic area identified in the Certificate of Need (CON) or Permit of Approval (POA) and may provide services up to 100-miles of the Parent Agency or Branch office.

- B) Branch Office. The parent home health agency shall submit an application to notify the Department in advance of the plan to establish a branch office by completing the Home Health Agency Notification for Branch Office form (See Form HHA-001). Included in the notification application shall be a description of the services to be provided, 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 survey by Health Facility Services.
 - 1) The parent agency must provide direct support and administrative control of its branches to include:
 - (a) Board of Directors or other corporate governing body oversight;
 - (b) Contracted services;
 - (c) Quality assurance and performance improvement plan;
 - (d) Policy and procedure implementation;
 - (e) Staffing;
 - (f) Human Resource management;
 - (g) Disposition of closed clinical records; and
 - (h) Staff training.

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;
 - 9) A pharmacy or wholesale medical supply company that furnishes those services to persons in their homes that relate to drugs and supplies;

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- 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.

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 and may serve up to 100-mile radius of the parent agency or branch office. 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 reference herein for all purposes.
 - 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.

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- 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 11), Skilled Care Services (SECTION 12);
 - (b) Extended Care - General Requirements (SECTION 11), Skilled Care Services (SECTION 12), Extended Care Services (SECTION 13);

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(c) Personal Care - General Requirements (SECTION 11), Personal Care Services (SECTION 14).

- 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.

SECTION 8. INSPECTIONS.

- A) A 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.
- D) 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.

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.

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) Agency-wide Infection control program:
 - (a) which has as its goal the prevention and control of the spread of infection and communicable disease;
 - (b) which has work restrictions according to CDC recommendations; and,
 - (c) has 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:
 - (a) job description signed by the employee;
 - (b) qualifications, education, and/or training;
 - (c) application for employment;

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- (d) criminal history checks as required by Ark. Code Ann. § 20-38-101 et. seq.;
 - (e) verification of licensure, permits, references, job experience, and educational requirements as appropriate;
 - (f) performance evaluations and disciplinary actions; and
 - (g) 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:
- 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.;

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- 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:
 - (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;

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- (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;
 - (i) Access information in the patient's own record upon request
 - (j) Receive prior notice and an explanation for the reasons of termination, referral, transfer, discontinuance of service or change in the plan of care;
 - (k) 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) Control access to the patient's home; and
 - (m) 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;

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

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- 7) Provisions shall be made for the protection of records in the event an agency ceases operation.
- H) A written notice of the felony status under A.C.A §5-13-202 of attacking a healthcare worker shall be posted in all public entrances and patient waiting area of the healthcare facility utilizing the digital poster available on the Arkansas Department of Health website.
- I) A healthcare provider shall not mislead any patient regarding the healthcare provider's licensure status.

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) 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) 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.

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- (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:
 - (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.

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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
 - (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.

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- 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.
 - (c) 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; and,
 - (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 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

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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.

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:
 - (i) Name of patient;
 - (ii) Address of the patient;
 - (iii) Diagnosis;
 - (iv) 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.
- 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

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- 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.

Rules for Home Health Agencies in Arkansas

CERTIFICATION

This will certify that the foregoing revisions to the Rules for Home Health Agencies in Arkansas were adopted by the State Board of Health of Arkansas at a regular session of said Board held in Little Rock, Arkansas, on the ____ day of _____, 2023..

Jennifer Dillaha, MD
Secretary of Arkansas State Board of Health
Director of the Arkansas Department of Health

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
- E. Alzheimer's disease and dementia (4 hours) to include:
 - a. Communication Skills;
 - b. Problem solving with challenging behaviors;
 - c. Assistance with daily living; and
 - d. explanation of Alzheimer's disease and other dementia;
- F. Emergency recognition and procedures;
- G. Household safety and fire;
- H. Infection control;
- I. Ethical considerations and state law regarding Nurse delegation;
- J. Nutrition;
- K. Ambulation;
- L. Household services for healthcare to include basic housekeeping procedures and laundry;
- M. Bathing, shampooing, shaving;
- N. Personal grooming to include dressing and undressing;
- O. Meal preparation and clean up;
- P. Oral hygiene;
- Q. Normal range of motion;
- R. Toileting;

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- S. Transfer techniques;
- T. Recordkeeping and documentation to include reporting changes to appropriate supervisor;
- U. Role of caregiver in team; and
- V. Nail and skin care.

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;
- L. Adequate nutrition and fluid intake;

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- 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.
- O. Alzheimer's disease and dementia (4 hours) to include;
 - a. Communication skills;
 - b. Problem solving with challenging behaviors;
 - c. Assistance with daily living; and
 - d. Explanation of Alzheimer's disease and other dementia.



Arkansas Department of Health

4815 West Markham Street • Little Rock, Arkansas 72205-3867 • Telephone (501) 661-2000

Governor Sarah Huckabee Sanders

Renee Mallory, RN, BSN, Secretary of Health

Jennifer Dillaha, MD, Director

PUBLIC COMMENT REPORT **Proposed Rules for Home Health Agencies in Arkansas**

PUBLIC COMMENTS:

Public comment period expired February 28, 2024.
No comments received.

AGENCY RESPONSE:

Proceed to adoption.