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DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Illinois Home Health, Home Services, and Home Nursing Agency Code

2) Code Citation: 77 Ill. Adm. Code 245

3) Section Numbers: Proposed Action:

245.10	Amendment
245.20	Amendment
245.25	Amendment
245.30	Amendment
245.40	Amendment
245.50	Repeal
245.60	Amendment
245.70	Amendment
245.71	New
245.75	New
245.80	Amendment
245.90	Amendment
245.95	New
245.100	Amendment
245.110	Amendment
245.115	New
245.120	Amendment
245.130	Amendment
245.150	Amendment
245.200	New
245.205	New
245.210	New
245.212	New
245.214	New
245.220	New
245.225	New
245.240	New
245.250	New

4) Statutory Authority: Home Health, Home Services, and Home Nursing Agency Licensing Act [210 ILCS 55]

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5) A Complete Description of the Subjects and Issues Involved:

The Illinois Home Health, Home Services, and Home Nursing Agency Code (77 Ill. Adm. Code 245) regulates home health agencies, including organization, staffing, services, training for home health aides, licensure, violations, and complaints. The proposed amendments will implement Public Act 94-0379, enacted by the General Assembly in 2005. PA 94-0379 changed the name of the Home Health Agency Licensing Act to the Home Health, Home Services, and Home Nursing Agency Licensing Act and required the licensure of home services agencies and home nursing agencies after September 1, 2008. The other extensive amendments in PA 94-0379 are incorporated into this rulemaking.

Section 245.10 (Purpose) is being amended to incorporate the new sections in the Home Health, Home Services, and Home Nursing Agency Licensing Act [210 ILCS 55] (the Act) that authorize the rulemaking.

Section 245.20 (Definitions) is being amended to add new definitions from PA 94-0379 and to update some existing definitions to bring the Section in conformity with the Act.

Section 245.25 (Incorporated and Referenced Materials) is being amended to update federal regulations and State statutes and rules incorporated in Part 245.

Section 245.30 (Organization and Administration) is being amended to add a job description for “agency manager” and otherwise bring the organizational and administration structures of home health, home services, and home nursing agencies into conformity with PA 94-0379.

Section 245.40 (Staffing and Staff Responsibilities) is being amended to add a statutory definition of “home services worker” and to list the duties and responsibilities of home services workers. Other language in the Section also is being updated.

Section 245.50 (Services) is being repealed.

Section 245.60 (Annual Financial Statement) and Section 245.70 (Home Health Aide Training) are receiving minor changes to bring them into conformity with the Act.

Section 245.71 (Home Services Worker Training) is being added to set minimum requirements for the training of home services workers, including ensuring that home services workers undergo a background check and a competency evaluation, and receive

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eight hours of training every twelve months.

Section 245.75 (Infection Control) is being added to require all agencies to develop and implement policies and procedures for investigating, controlling, and preventing infections.

Section 255.80 (Licensure Required) is being amended to add statutory language prohibiting anyone from opening, managing, conducting, or maintaining a home services agency or a home nursing agency after September 1, 2008, without first obtaining a license from the Department of Public Health.

Section 245.90 (License Application) is being amended to add statutory language from PA 94-0379 and otherwise bring the Section into conformity with the Act.

Section 245.95 (License Application Fee) is being added to establish licensure fees for home nursing agencies, home nursing placement agencies, home services placement agencies, and home health agencies.

Section 245.100 (Provisional License) is being amended to bring the language regarding provisional licenses into conformity with the Act. Section 245.110 (Inspections and Investigations) is receiving minor amendments to bring it into conformity with the Act.

Section 245.115 (Complaints) is being added to establish procedure for handling complaints.

Section 245.120 (Violations), Section 245.130 (Adverse Licensure Actions), and Section 245.150 (Hearings) are receiving minor amendments to update references to other State statutes and bring them into conformity with the Act.

Section 245.200 (Services – Home Health) is being added to establish the kinds of services home health agencies are expected to provide, including skilled nursing service, at least one other kind of home health service, a plan of treatment, a patient care plan, policies governing the administration of drugs and biologicals, and so on.

Section 245.205 (Services – Home Nursing Agencies) is being added to establish the kind of services expected of home nursing agencies, whether directly or through a contractual purchase of services.

Section 245.210 (Services – Home Services Agencies) is being added to establish the kind of minimal non-medical services expected of home service agencies, including

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acceptance of clients and a plan of service.

Section 245.212 (Services – Home Nursing Placement Agencies) is being added to establish the minimum requirements for licensure as a home nursing placement agency.

Section 245.214 (Services – Home Services Placement Agency) is being added to establish the minimum requirements for licensure as a home services placement agency.

Section 245.220 (Client Service Contracts – Home Nursing and Home Services Agencies) is being added to require that there be a contract between home nursing or home services agencies and a client, and to outline the minimum requirements for all contracts.

Section 245.225 (Client Service Contracts – Home Nursing Placement Agency and Home Services Placement Agency) is being added to require that there be a contract between home nursing placement or home services placement agencies and a client, and to outline the minimum requirements for all contracts.

Section 245.240 (Quality Improvement Program) is being added to establish the minimum requirements for mandated quality improvement programs.

Section 245.250 (Abuse, Neglect, and Financial Exploitation Prevention and Reporting) is being added to establish minimum requirements for reporting complaints of abuse, neglect, and financial exploitation, including requirements for agencies and agency employees and volunteers.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No

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- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: The rulemaking does not create a State Mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

Susan Meister  
Division of Legal Services  
Illinois Department of Public Health  
535 West Jefferson St., 5<sup>th</sup> Floor  
Springfield, Illinois 62761  
217/782-2043  
e-mail: rules@idph.state.il.us

- 13) Initial Regulatory Flexibility Analysis:
- A) Type of small businesses, small municipalities and not-for-profit corporations affected: home health, home services, and home nursing agencies
- B) Reporting, bookkeeping or other procedures required for compliance: bookkeeping, reporting and record-keeping will be required for compliance.
- C) Types of professional skills necessary for compliance: nursing
- 14) Regulatory Agenda on which this rulemaking was summarized: January, 2007

The full text of the Proposed Amendment begins on the next page:

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TITLE 77: PUBLIC HEALTH

CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

SUBCHAPTER b: HOSPITALS AND AMBULATORY CARE FACILITIES

PART 245

~~ILLINOIS~~ HOME HEALTH, HOME SERVICES, AND HOME NURSING AGENCY CODE

SUBPART A: GENERAL PROVISIONS

Section	
245.10	Purpose
245.20	Definitions
245.25	Incorporated and Referenced Materials

SUBPART B: OPERATIONAL REQUIREMENTS

Section	
245.30	Organization and Administration
245.40	Staffing and Staff Responsibilities
245.50	Services ( <u>Repealed</u> )
245.55	Vaccinations
245.60	Annual Financial Statement
245.70	Home Health Aide Training
<u>245.71</u>	<u>Qualifications and Requirements for Home Services Workers</u>
245.72	Health Care Worker Background Check
<u>245.75</u>	<u>Infection Control</u>

SUBPART C: LICENSURE PROCEDURES

Section	
245.80	Licensure Required
245.90	License Application
<u>245.95</u>	<u>License Application Fee</u>
245.100	Provisional License
245.110	Inspections and Investigations
<u>245.115</u>	<u>Complaints</u>
245.120	Violations
245.130	Adverse Licensure Actions
245.140	Penalties and Fines

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245.150 Hearings

SUBPART D: CLIENT/PATIENT SERVICES

<u>245.200</u>	<u>Services – Home Health</u>
<u>245.205</u>	<u>Services – Home Nursing Agencies</u>
<u>245.210</u>	<u>Services – Home Services Agencies</u>
<u>245.212</u>	<u>Services – Home Nursing Placement Agency</u>
<u>245.214</u>	<u>Services – Home Services Placement Agency</u>
<u>245.220</u>	<u>Client Service Contracts – Home Nursing and Home Services Agencies</u>
<u>245.225</u>	<u>Client Service Contracts – Home Nursing Placement Agency and Home Services Placement Agency</u>
<u>245.240</u>	<u>Quality Improvement Program</u>
<u>245.250</u>	<u>Abuse, Neglect, and Financial Exploitation Prevention and Reporting</u>

AUTHORITY: Implementing and authorized by the Home Health, Home Services, and Home Nursing Agency Licensing Act [210 ILCS 55].

SOURCE: Adopted at 2 Ill. Reg. 31, p. 77, effective August 2, 1978; emergency amendment at 3 Ill. Reg. 38, p. 314, effective September 7, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 40, p. 153, effective October 6, 1979; emergency amendment at 4 Ill. Reg. 18, p. 129, effective April 21, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 40, p. 56, effective September 23, 1980; emergency amendment at 6 Ill. Reg. 5855, effective April 28, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11006, effective August 30, 1982; amended at 7 Ill. Reg. 13665, effective October 4, 1983; codified at 8 Ill. Reg. 16829; amended at 9 Ill. Reg. 4836, effective April 1, 1985; amended at 14 Ill. Reg. 2382, effective February 15, 1990; amended at 15 Ill. Reg. 5376, effective May 1, 1991; amended at 18 Ill. Reg. 2414, effective January 22, 1994; emergency amendments at 20 Ill. Reg. 488, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 3273, effective February 15, 1996; amended at 20 Ill. Reg. 10033, effective July 15, 1996; amended at 22 Ill. Reg. 3948, effective February 13, 1998; amended at 22 Ill. Reg. 22050, effective December 10, 1998; amended at 23 Ill. Reg. 1028, effective January 15, 1999; amended at 24 Ill. Reg. 17213, effective November 1, 2000; amended at 25 Ill. Reg. 6379, effective May 1, 2001; amended at 26 Ill. Reg. 11241, effective July 15, 2002; amended at 28 Ill. Reg. 3487, effective February 9, 2004; amended at 28 Ill. Reg. 8094, effective May 26, 2004; amended at 29 Ill. Reg. 20003, effective November 28, 2005; amended at 31 Ill. Reg. 9453, effective June 25, 2007; amended at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART A: GENERAL PROVISIONS

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Section 245.10 Purpose

- a) This Part has been adopted in accordance with Sections 6, 6.3 and 6.7 of the Home Health, Home Services and Home Nursing Agency Licensing Act (“the Act”) [210 ILCS 55/6, 6.3, and 6.7]~~Section 6 of the Home Health Agency Licensing Act (“the Act”)~~ (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 2806).
- b) Home health agencies licensed under the Act and this Part may be eligible for participation in the federal Medicare program under the rules of the federal Center for Medicare and Medicaid Services Health Care Financing Administration (42 CFR 484.1 through 484.40).
- c) *Health care and support services are provided in the consumer’s home by three basic types of agencies: home health care, home nursing care, and home support services. Each type of agency delivers a different type and scope of care or service. (Section 1.01 of the Act)*

(Source: Amended at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 245.20 Definitions

Act – the Home Health, Home Services and Home Nursing Agency Licensing Act [210 ILCS 55].

Administrator—any one of the following:

~~a physician;~~

~~a registered nurse;~~

~~an individual with at least one year of supervisory or administrative experience in home health care or in related health provider programs; or~~

~~an individual who meets the requirements for Public Health Administrator as contained in 77 Ill. Adm. Code 600.300 of the Certified Local Health Department Code (77 Ill. Adm. Code 600) as promulgated by the Department.~~

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Advocate – a person who represents the rights and interests of an individual as though they were the person’s own, in order to realize the rights to which the individual is entitled, obtain needed services, and remove barriers to meeting the individual’s needs.

Agency – a home health agency, home nursing agency, or home services agency, unless specifically stated otherwise. (Section 2.03a of the Act)

~~Agency – a Home Health Agency, unless otherwise designated.~~

Agency Manager – the individual designated by the Governing body or the entity legally responsible for the agency, who has overall responsibility for the organization and day-to-day operation of the home services or home nursing agency.

Audiologist – a person who has received a license to practice audiology pursuant to the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110].

Branch Office – a location or site from which a home health agency provides services within a portion of the total geographic area served by the parent agency. The branch office is part of the home health agency and is located sufficiently close to share administration, supervision and services in a manner that renders it unnecessary for the branch independently to meet the conditions of participation as a home health agency.

Bylaws or Equivalent – a set of rules adopted by an a home health agency for governing the agency's operation.

Client – an individual receiving services from a home nursing agency, a home services agency, or a placement agency. This term includes the service recipient’s advocate or designee.

Clinical Note – a dated, written notation by a member of the health team of a contact with a patient, containing a description of signs and symptoms, treatment and/or drug given, the patient's reaction, and any changes in physical or emotional condition.

Clinical Record – an accurate account of services provided for each patient and maintained by a home health or home nursingthe agency in accordance with

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accepted professional standards.

Companionship – services that provide fellowship, care and protection for a client who, because of advanced age or physical or mental infirmity, cannot care for his or her own needs. Services include household work related to the care of the client, such as meal preparation, bed making, washing of clothes or other similar services.

*Department* – the Department of Public Health of the State of Illinois. (Section 2.01 of the Act)

*Director* – the Director of Public Health of the State of Illinois, or his or her designee. (Section 2.02 of the Act)

Discharge Summary – the written report of services rendered, goals achieved, and final disposition at the time of discharge from service of a home health or home nursing agency.

Employee Prospect – a person or persons to whom an agency expects to extend an offer of employment.

Geographic Service Area – the area from which home health agency patients are drawn. This area is to be clearly defined by readily recognizable boundaries.

Health Care Professional – a physician licensed to practice medicine in all of its branches, a podiatrist, an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes services under the Act, or a physician assistant who has been delegated the authority to perform services under the Act by his or her supervising physician.

Home Health Agency ~~Home Health Agency~~ – a public agency or private organization ~~that~~ which provides skilled nursing services and at least one other home health service as defined in this Part. (Section 2.04 of the Act)

Home Health Agency Administrator – any one of the following:

a physician;

a registered nurse;

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an individual with at least one year of supervisory or administrative experience in home health care or in related health provider programs; or

an individual who meets the requirements for Public Health Administrator as contained in Section 600.300 of the Certified Local Health Department Code (77 Ill. Adm. Code 600).

Home Health Aide – a person who provides personal care and emotional comfort to assist the patient toward independent living in a safe environment. A person may not be employed as a home health aide unless he/she meets the requirements of Section 245.70 of this Part.

*Home Health Services – services provided to a person at his residence according to a plan of treatment for illness or infirmity prescribed by a physician or podiatrist. Such services include part-time and intermittent nursing services and other therapeutic services such as physical therapy, occupational therapy, speech therapy, medical social services or services provided by a home health aide. (Section 2.05 of the Act)*

*Home Nursing Agency – an agency that provides services directly, or acts as a placement agency, in order to deliver skilled nursing services to persons in their personal residences. A home nursing agency provides services that would require an individual licensed under the Nursing and Advanced Practice Nursing Act [225 ILCS 65] to perform. A home nursing agency does not qualify for licensure as a home health agency under the Act. “Home nursing agency” does not include an individually licensed nurse acting as a private contractor or a person that provides or procures temporary employment in health care facilities, as defined in the Nurse Agency Licensing Act. (Section 2.11 of the Act)*

Home Nursing Services – are considered services that would be required to be performed by an individual licensed under the Nursing and Advanced Practice Nursing Act on a shift schedule, one-time, full-time or part-time, and/or intermittent basis.

*Home Services Agency – an agency that provides services directly, or acts as a placement agency, for the purpose of placing individuals as workers providing home services for consumers primarily in their personal residences. Home Services Agency does not include agencies licensed under the Nurse Agency*

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Licensing Act, the Hospital Licensing Act, the Nursing Home Care Act, or the Assisted Living and Shared Housing Act and does not include an agency that limits its business exclusively to providing housecleaning services. Programs providing services exclusively through the Community Care Program of the Illinois Department on Aging or the Department of Human Services Office of Rehabilitation Services are not considered to be a home services agency under the Act. (Section 2.08 of the Act)

Home Services – assistance with activities of daily living, housekeeping, personal laundry, and companionship provided to an individual in his or her personal residence, which are intended to enable that individual to remain safely and comfortably in his or her own personal residence. “Home Services” does not include services that would be required to be performed by an individual licensed under the Nursing and Advanced Practice Nursing Act. (Section 2.09 of the Act)  
Home care services are focused on providing assistance that is not medical in nature but, is based upon assisting the client in meeting the demands of living independently and maintaining a personal residence such as companionship, cleaning, laundry, shopping, meal preparation, dressing, and bathing.

Home Services Worker – an individual who provides home care services to a consumer in the consumer’s personal residence. (Section 2.10 of the Act) The terms homemaker and companion are commonly used to refer to this type of worker.

In-Home Services – has the same meaning and is used in the same context throughout as “home services” defined in this Section. (Section 2.09 of the Act)

In-Home Services Worker – has the same meaning and is used in the same context as “home services worker” defined in this Section and means an individual who provides home care services to a consumer in the consumer’s personal residence. (Section 2-10 of the Act)

In-Home Support Services – has the same meaning as home services and is used in the same context throughout as “home services” as defined in this Section.

Licensed Practical Nurse – a person currently licensed as a licensed practical nurse under the Nursing and Advanced Practice Nursing Act [225 ILCS 65].

Medical Social Worker – a person who is a licensed social worker or a licensed

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clinical social worker under the Clinical Social Work and Social Work Practice Act [225 ILCS 20].

Occupational Therapist – a person who is licensed as an occupational therapist under the Illinois Occupational Therapy Practice Act [225 ILCS 75] and meets either or both one or more of the following requirements:

is a graduate of an occupational therapy curriculum accredited jointly by the Council on Medical Education of the American Medical Association and the American Occupational Therapy Association, or

is eligible for the National Registration Examination of the American Occupational Therapy Association, ~~or~~

~~has two years of appropriate experience as an occupational therapist and has achieved a satisfactory grade on a proficiency examination conducted, approved or sponsored by the U.S. Public Health Service, except that such examinations of proficiency do not apply with respect to persons initially licensed by a state or seeking initial qualification as an occupational therapist after December 31, 1977.~~

Occupational Therapy Assistant – a person who is licensed as an occupational therapy assistant under the Illinois Occupational Therapy Practice Act and meets ~~one or more of the following~~ requirements:

~~meets the requirements for certification as an occupational therapy assistant established by the American Occupational Therapy Association,;~~  
~~or~~

~~has two years of appropriate experience as an occupational therapy assistant and has achieved a satisfactory grade on a proficiency examination conducted, approved or sponsored by the U.S. Public Health Service, except that such determinations of proficiency do not apply with respect to persons initially licensed by a state or seeking initial qualification as an occupational therapy assistant after December 31, 1977.~~

Part Time or Intermittent Care – home health services given to a patient at least once every 60 days or as frequently as a few hours a day, several times per week.

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Patient – a person who is under treatment or care for illness, disease, injury or conditions appropriately responsive to home health or home nursing services to maintain health or prevent illness.

Patient Care Plan – a coordinated and combined care plan prepared by and in collaboration with each discipline providing service to the patient, to the patient's family, or to both.

*Person – any individual, firm, partnership, corporation, company, association or any other legal entity. (Section 2.03 of the Act)*

Personal care services – services that are furnished to a client in the client’s personal residence to meet the client’s physical, maintenance, and supportive needs, when those services are not considered skilled personal care, as described in this Section and Part, and do not require physician’s orders or the supervision of a nurse.

Physical Therapist – a person who is licensed as a physical therapist under the Illinois Physical Therapy Act [225 ILCS 90] and who meets the qualifications for a physical therapist under the Federal Conditions of Participation for Home Health Agencies established by the Center for Medicare and Medicaid Services Health Care Financing Administration (42 CFR 484.1 through 484.40).

Physical Therapist Assistant – a person who is licensed as a physical therapist assistant under the Illinois Physical Therapy Act and who meets the qualifications for a physical therapist assistant under the Federal Conditions of Participation for Home Health Agencies established by the Center for Medicare and Medicaid Services Health Care Financing Administration (42 CFR 484.1 through 484.40).

Physician – Any person licensed to practice medicine in all of its branches under the Medical Practice Act of 1987 [225 ILCS 60]. For a patient who has received medical care in another state, or has moved from another state, and who has not secured the services of a physician licensed in Illinois, an individual who holds an active license to practice medicine in another state will be considered the physician for the patient during this emergency (as determined by the physician) as provided in Section 3 of the Medical Practice Act of 1987. Such an emergency may not extend more than six months in any case.

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Placement Agency – any person engaged for gain or profit, regardless of the agency tax status, in the business of securing or attempting to secure work for hire for persons seeking work or workers for employers. The term includes a private employment agency and any other entity that places a worker for private hire by a consumer in that consumer’s residence for purposes of providing home services. The term does not include a person that provides or procures temporary employment in health care facilities, as defined in the Nurse Agency Licensing Act. (Section 2.12. of the Act)

Plan of Treatment – a plan based on the patient's diagnosis and the assessment of the patient's immediate and long-range needs and resources. The plan of treatment is established in consultation with, in the case of a home health agency, the home health services team, which includes the attending physician or podiatrist, pertinent members of the agency staff, the patient, and members of the family.

Podiatrist – a person who is licensed to practice under the Podiatric Medical Practice Act of 1987 [225 ILCS 100].

Professional Advisory Group – a group composed of at least one practicing physician, one registered nurse (preferably a public health nurse), and with appropriate representation from other professional disciplines that are participating in the provision of home health services. It is highly recommended that a consumer be a member of the group. At least one member of the group is neither an owner nor an employee of the home health agency.

Progress Notes – a dated, written notation by a member of the health team, summarizing facts about care and the patient's response during a given period of time.

Purchase of Services/Contractual – the provision of services through a written agreement with other providers of services.

Registered Nurse – a person who is currently licensed as a registered nurse under the Nursing and Advanced Practice Nursing Act [225 ILCS 65].

Skilled Nursing Services – those services which, due to their nature and scope, would require the performing individual to be licensed under the Nursing and Advanced Practice Nursing Act. These services are acts requiring the basic nursing knowledge, judgment and skills acquired by means of completion of an

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approved nursing education program and include, but are not limited to: assessment of healthcare needs; nursing diagnosis; planning, implementation and nursing evaluation; counseling and/or patient education; health education; the administration of medications and treatments; and the coordination and/or management of a nursing or medical plan of care.

Skilled personal care – personal care that may be provided only by a home health aide, as defined in this Section, or an individual who is a certified or licensed health care professional under the laws of the State of Illinois.

Social Work Assistant – a person who has a baccalaureate degree in social work, psychology, sociology, or other field related to social work and has had at least one year of social work experience in a health care setting; ~~or has two years of appropriate experience as a social work assistant and has achieved a satisfactory grade on a proficiency examination conducted, approved or sponsored by the U.S. Public Health Service, except that such determinations of proficiency do not apply with respect to persons initially licensed by a state or seeking initial qualifications as a social work assistant after December 31, 1977.~~

Speech-Language Pathologist – a person who is licensed as a speech-language pathologist under the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110].

Student – an individual who is enrolled in an educational institution and who is receiving training in a health-related profession.

Subdivision – a component of a multi-function health agency, such as the home care department of a hospital or the nursing division of a health department, which independently meets the federal conditions of participation for home health agencies. A subdivision that has branches is regarded as a parent agency.

Substantial compliance or substantially meets – meeting requirements except for variance from the strict and literal performance, which results in unimportant omissions or defects given the particular circumstances involved.

Subunit – a semi-autonomous organization, which serves patients in a geographic area different from that of the parent agency. The subunit, by virtue of the distance between it and the agency, is judged incapable of sharing administration, supervision and services.

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Summary Report – a compilation of the pertinent factors from the clinical notes and progress notes regarding a patient, which is submitted to the patient's physician or podiatrist.

Supervision – authoritative procedural guidance by a qualified person of the appropriate discipline.

(Source: Amended at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 245.25 Incorporated and Referenced Materials

- a) The following federal regulations are incorporated by reference in this Part and apply only to Medicare certified agencies:
- 1) Department of Health and Human Services, Center for Medicare and Medicaid Services Health Care Financing Administration, Medicare Program Conditions of Participation for Home Health Agencies (42 CFR 484, October 1, 2006).~~1 through 484.55), October 1, 2005.~~
  - 2) The following Infection Control Guidelines, which may be obtained from the Department of Health and Human Services Centers for Disease Control and Prevention, Atlanta, Georgia 30333.
    - A) Hand Hygiene in Healthcare Settings, 2002
    - B) Infection Control in Healthcare Personnel - 1998
- b) The following guidelines of a federal agency are incorporated by reference in this Part:
- Department of Health and Human Services, Centers for Disease Control and Prevention, Morbidity and Mortality Weekly Report, General Recommendations on Immunization, February 8, 2002.
- c) All incorporations by reference of federal regulations and guidelines ~~and the standards of nationally recognized organizations~~ in this Part refer to the regulations, and guidelines, ~~or standards~~ on the date specified and do not include

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any amendments or editions subsequent to the date specified.

d) The following State statutes are referenced in this Part:

- 1) Code of Civil Procedure ~~Administrative Review Law~~ [735 ILCS 5/Art. III]
- 2) Business Corporation Act of 1983 [805 ILCS 5]
- 3) Illinois Administrative Procedure Act [5 ILCS 100]
- 4) Nursing and Advanced Practice Nursing Act [225 ILCS 65]
- 5) Illinois Occupational Therapy Practice Act [225 ILCS 75]
- 6) Illinois Physical Therapy Act [225 ILCS 90]
- 7) Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110]
- 8) Local Records Act [50 ILCS 205]
- 9) Medical Practice Act of 1987 [225 ILCS 60]
- 10) Health Care Worker Background Check Act [225 ILCS 46]
- 11) Nurse Agency Licensing Act [225 ILCS 510]
- 12) Clinical Social Worker and Social Work Practice Act [225 ILCS 20]
- 13) Podiatric Medical Practice Act of 1987 [225 ILCS 100]

e) The following State rules are referenced in this Part:

- 1) Department of Public Health, Certified Local Health Department Code (77 Ill. Adm. Code 600)
- 2) Department of Public Health, Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)

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- 3) Department of Public Health, Long-Term Care Assistants and Aides Training Programs Code (77 Ill. Adm. Code 395).

(Source: Amended at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART B: OPERATIONAL REQUIREMENTS

Section 245.30 Organization and Administration

- a) Governing Body – All Agencies:  
The ~~home health~~ agency shall have a governing body or a clearly defined body having legal authority and responsibility for the conduct of the ~~home health~~ agency. Where the governing body of a large organization is functionally remote from the operation of the ~~home health~~ agency, the Department may approve the designation of an intermediate level “governing body”. For the purposes of this Section, the governing body shall:
- 1) Have bylaws or the equivalent, which shall be reviewed annually and be revised as needed. They shall be made available to all members of the governing body and of the professional advisory group. The bylaws or the equivalent shall specify the objectives of the agency.
  - 2) ~~Appoint members of the professional advisory group.~~
  - 3) ~~Employ a qualified administrator.~~
  - 2)4) Adopt and revise, as needed, policies and procedures for the operation and administration of the agency.
  - 3)5) Meet to review the operation of the agency.
  - 4)6) Keep minutes of all meetings.
  - 5)7) Provide and maintain an office facility adequately equipped for efficient work and that provides a safe working environment in compliance with local ordinances and fire regulations.
- b) ~~Professional Advisory Group~~

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- 1) ~~The professional advisory group shall assist in developing and recommending policies and procedures for administration and home health services provided by the agency. These policies and procedures shall be in accordance with the scope of services offered by the agency and based on the home health needs of the patient and the area being served. Policies and procedures shall be reviewed annually or more frequently as needed to determine their adequacy and suitability. Recommendations for any improvements are made to the Governing Body. These policies and procedures shall include but not be limited to:~~
  - A) ~~Administration and supervision of the agency and the home health services it provides.~~
  - B) ~~Criteria for the acceptance, non-acceptance and discharge of patients.~~
  - C) ~~Home health services.~~
  - D) ~~Medical supervision and plans of treatment.~~
  - E) ~~Patient care plans.~~
  - F) ~~Clinical records.~~
  - G) ~~Personnel data.~~
  - H) ~~Evaluation.~~
  - I) ~~Coordination of services.~~
- 2) ~~The group shall keep minutes of its meetings and meet as often as necessary to carry out its purposes.~~

b)e) Administration – All Agencies

- 1) The ~~home health~~ agency shall have written administrative policies and procedures to ensure the provision of safe and adequate care of the patient or client.

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- 2) The ~~home health~~ agency shall show evidence of liability insurance.
  - 3) The agency shall develop and implement written policies for complaint resolution between the agency and its patients/clients and/or patient/client advocate(s) in regard to services being provided to the patient/client.
- d) Agency Supervision
- 1) ~~The home health agency shall designate a person with one of the following sets of qualifications to supervise the provision of home health services:~~
    - A) ~~A physician;~~
    - B) ~~A registered nurse who:~~
      - i) ~~Has completed a baccalaureate degree program approved by the National League for Nursing; and~~
      - ii) ~~Has at least one year of nursing experience.~~
    - C) ~~A registered nurse who does not have a baccalaureate degree, but who has at least three years of nursing experience, which meets the following requirements:~~
      - i) ~~At least two years of such nursing experience must have been in either: a home health agency; a community health program that included care of the sick; or a generalized family-centered nursing program in a community health agency.~~
      - ii) ~~At least two years of the three years nursing experience must have been obtained within five years prior to current employment with the home health agency.~~
  - 2) ~~The agency supervisor shall be available at all times during operating hours of the agency and participate in all activities relevant to the provision of home health services.~~

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- 3) ~~Any person employed as an agency supervisor prior to July 1, 1983, may continue to serve in that capacity at that agency only without meeting the qualifications for agency supervisor that were in effect prior to October 1, 1983.~~
- 4) ~~One person may hold the positions of both administrator and agency supervisor, if that person meets the requirements of both positions.~~
- e) ~~Supervising Nurse~~
  - 1) ~~The skilled nursing service of a home health agency shall be under the supervision of a full-time registered nurse.~~
  - 2) ~~The supervising nurse shall be responsible for:~~
    - A) ~~The overall supervision of all registered nurses, licensed practical nurses, and home health aides.~~
    - B) ~~The assurance that the professional standards of community nursing practice are maintained by all nurses providing care.~~
    - C) ~~Maintaining and adhering to agency procedure and patient care policy manuals.~~
    - D) ~~Participation in the establishment of service policies and procedures.~~
    - E) ~~Participation in the selection of nursing personnel and the evaluation of nursing personnel.~~
    - F) ~~Coordination of patient care services.~~
    - G) ~~Keeping and maintaining records of case assignments and case management.~~
    - H) ~~Preparation and maintenance of scheduling of cases to be brought to the clinical record review committee.~~

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- ~~f)~~ ~~The conduct of selective program evaluations to improve deficient services and the development and implementation of plans of correction.~~
- c)f) Personnel Policies – All Agencies (Placement Agencies must meet items 2, 3 and 4)
- 1) Personnel policies applicable and available to all full- and part-time employees shall include, but not be limited to, the following:
    - A) Wage scales, fringe benefits, hours of work, and leave time;
    - B) Requirements for an initial health evaluation of each new employee who has contact with clients/patients, including a physical examination and any other components as specified by the governing body;
    - C) Orientation to the ~~home health~~ agency and appropriate continuing education;
    - D) Job descriptions for all positions utilized by the agency;
    - E) Annual performance evaluation for all employees;
    - F) Compliance with all applicable requirements of the Civil Rights Act of 1964;
    - G) Provision for confidentiality of personnel records;
    - H) Employee health policies that require employees to report health symptoms and exposure to any communicable or infectious disease and that specify conditions under which employees are to be removed from patient or client contact and conditions under which employees may resume patient/client contact; and
    - I) Agency procedures related to identifying potential dangers to the health and safety of agency personnel providing services in the home and procedures for protecting agency personnel from identified dangers.

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- 2) Prior to employing or placing any individual in a position that requires a State professional license, the ~~home health~~ agency shall contact the Illinois Department of Professional Regulation to verify that the individual's license is active. A copy of the verification of the individual's license shall be placed in the individual's personnel file.
- 3) The ~~home health~~ agency shall check the status of employee or placement prospects who have direct patient/client care responsibilities with the Nurse Aide Registry prior to hiring.
- 4) Personnel records for all employees/placement agency registry files for placement workers shall include the name and address of the employee or placement worker, social security number, date of birth, name and address of next of kin, evidence of qualifications (including any current licensure, registration, or certification which is required by state or federal law for the functions performed), and dates of employment or placement and separation from the agency and the reason for separation.
- 5) Home health agencies that provide other home health services under arrangement through a contractual purchase of services shall ensure that these services are provided by qualified personnel, who hold any current licensure, registration, or certification that is required by state or federal law for the functions performed, under the supervision of the agency.

d) Professional Advisory Group - Home Health Agencies

- 1) The professional advisory group shall be appointed by the Governing Body and shall assist in developing and recommending policies and procedures for administration and home health services provided by the agency. These policies and procedures shall be in accordance with the scope of services offered by the agency and based on the home health needs of the patient and the area being served. Policies and procedures shall be reviewed annually or more frequently as needed to determine their adequacy and suitability. Recommendations for any improvements are made to the Governing Body. These policies and procedures shall include, but not be limited to:

A) Administration and supervision of the home health agency and the

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home health services it provides;

B) Criteria for the acceptance, non-acceptance, and discharge of patients;

C) Home health services;

D) Medical supervision and plans of treatment;

E) Patient care plans;

F) Clinical records;

G) Personnel data;

H) Evaluation; and

I) Coordination of services.

2) The group shall keep minutes of its meetings and meet as often as necessary to carry out its purposes.

e) Agency Supervision – Home Health Agencies

1) The home health agency shall designate a person with one of the following sets of qualifications to supervise the provision of home health services:

A) A physician;

B) A registered nurse who:

i) Has completed a baccalaureate degree program approved by the National League for Nursing; and

ii) Has at least one year of nursing experience.

C) A registered nurse who does not have a baccalaureate degree, but who has at least three years of nursing experience, which meets the



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- D) Participation in the establishment of service policies and procedures;
- E) Participation in the selection of nursing personnel and the evaluation of nursing personnel;
- F) Coordination of patient care services;
- G) Keeping and maintaining records of case assignments and case management;
- H) Preparation and maintenance of scheduling of cases to be brought to the clinical record review committee; and
- I) The conduct of selective program evaluations to improve deficient services and the development and implementation of plans of correction.

g) Agency Manager – Home Services and Home Nursing Agencies

- 1) A home services agency shall designate a person to supervise the provision of services or oversee the placement of workers through the licensed home services agency.
- 2) A home nursing agency shall designate a person who is qualified under the laws of the State of Illinois, to supervise the provision of skilled nursing care to clients or to oversee the placement of workers qualified to provide skilled nursing services to consumers through the licensed home nursing agency.

(Source: Amended at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 245.40 Staffing and Staff Responsibilities

- a) Home Health Administrator/Agency Manager. The administrator and/or agency manager shall have the following responsibilities:
  - 1) Ensure that the agency is in compliance with all applicable federal, State

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and local laws.

- 2) Be familiar with the applicable rules of the Department and maintain them within the agency.
  - 3) Familiarize all employees as well as providers through contractual purchase of services with the law and the rules of the Department and make copies available for their use.
  - 4) Ensure the completion, maintenance and submission of such reports and records as required by the Department.
  - 5) Maintain ongoing liaison with the governing body, professional advisory group, staff members and the community.
  - 6) Maintain a current organizational chart to show lines of authority down to the patient or client level.
  - 7) Have the authority for the management of the business affairs and the overall operation of the agency.
  - 8) Maintain appropriate personnel records, administrative records and all policies and procedures of the agency.
  - 9) Employ qualified personnel in accordance with job descriptions.
  - 10) Provide orientation of new staff, regularly scheduled in-service education programs and opportunities for continuing education for the staff.
  - 11) Designate in writing the qualified staff member to act in the absence of the administrator.
- b) Home Health Aide
- 1) When home health aide services are offered, the services shall be under the supervision of a registered nurse in accordance with the plan of treatment. The home health aide is assigned to a particular patient by a registered nurse. Written instructions for patient care are prepared by a registered nurse or the appropriate therapist.

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- 2) Duties of the home health aide may include:
  - A) The performance of simple procedures as an extension of therapeutic services.
  - B) Personal care, as defined in this Part.
  - C) Ambulation and exercise of the patient.
  - D) Household services essential to health care at home.
  - E) Assistance with medications that are ordinarily self-administered.
  - F) Reporting changes in the patient's/client's condition and needs to the registered nurse or the appropriate therapist.
  - G) Completion of appropriate records.
- 3) The registered nurse or appropriate therapist shall make a supervisory visit to the patient's residence at least every two weeks, either when the home health aide is present to observe and assist, or when the home health aide is absent to assess relationships and determine whether goals are being met.

c) Home Services or In-Home Services Worker

- 1) As defined in this Part and under the Act, Home Services or "in-home services" means assistance with activities of daily living , housekeeping, personal laundry, and companionship provided to an individual in his or her personal residence, which are intended to enable that individual to remain safely and comfortably in his or her own personal residence. "Home Services" or "in home services" does not include services that would be required to be performed by an individual licensed under the Nursing and Advanced Practice Nursing Act. (Section 2.09 of the Act) Home services are focused on providing assistance that is not medical in nature, but is based upon assisting the client in meeting the demands of living independently and maintaining a personal residence, such as companionship, cleaning, laundry, shopping, meal preparation, dressing,

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and bathing.

- 2) Home Services or In-Home Services Workers will provide services in accordance with the policies and requirements of the placement or employing agency as well as the service arrangements spelled out in the contract.
- 3) Duties of Home Services or In-Home Services Workers may include the following:
  - A) General client oversight;
  - B) Assistance with household chores, including cooking and meal preparation, cleaning, and laundry;
  - C) Assistance in completing activities such as shopping, and appointments outside of the home;
  - D) Companionship;
  - E) Completion of appropriate records documenting service provision; and
  - F) Assistance with activities of daily living and personal care.
- 4) To delineate the types of services that can be provided by a home services worker, the following are examples of limitations where a more medical model of assistance would be needed to meet higher needs of the client.
  - A) Skin Care. A home services worker may perform general skin care assistance. Skin care may be performed by a home services worker only when skin is unbroken, and when any chronic skin problems are not active. The skin care provided by a home services worker must be preventative rather than therapeutic in nature, and may include the application of non-medicated lotions and solutions, or of lotions and solutions not requiring a physician's prescription. Skilled skin care must be provided by an agency licensed as a home health or home nursing services agency. Skilled skin care includes wound care, dressing changes,

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application of prescription medications, skilled observation, and reporting.

- B) Ambulation. A home services worker may assist clients with ambulation. Clients in the process of being trained to use adaptive equipment for ambulation, such as walkers, canes or wheelchairs, require supervision by an agency licensed to provide home health or home nursing services during the period of their training. Once the prescribing individual or the health care provider responsible for the training of the client is comfortable with releasing the client to work on his or her own with the adaptive equipment, a home services worker may be assigned to assist with ambulation.
- C) Bathing. A home services worker may assist clients with bathing. When a client has skilled skin care needs or skilled dressings that will need attention before, during, or after bathing, the client shall be in the care of an agency licensed as a home health agency or a home nursing agency to meet those specific needs.
- D) Dressing. A home services worker may assist a client with dressing. This may include assistance with ordinary clothing and application of support stockings of the type that can be purchased without a physician's prescription. A home services worker may not assist with application of an Ace bandage and anti-embolic or other pressure stockings that can be purchased only with a physician's prescription.
- E) Exercise. A home services worker may assist a client with exercise. Passive assistance with exercise that can be performed by a home services worker is limited to the encouragement of normal bodily movement, as tolerated, on the part of the client, and to encouragement with a prescribed exercise program. Passive Range of Motion may not be performed by a home services worker.
- F) Feeding. A home services worker may provide assistance with feeding. Home services workers can assist clients with feeding when the client can independently swallow and be positioned upright. Assistance by a home services worker does not include

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syringe, tube feedings, and intravenous nutrition. Whenever there is a high risk that the client may choke as a result of the feeding, the client shall be in the care of an agency licensed as a home health or home nursing agency to fulfill this function.

- G) Hair care. As a part of the broader set of services provided to clients who are receiving home services, home services agencies may assist clients with the maintenance and appearance of their hair. Hair care within these limitations may include shampooing with non-medicated shampoo or shampoo that does not require a physician's prescription, drying, combing and styling hair.
- H) Mouth care. A home services worker may assist in and perform mouth care. This may include denture care and basic oral hygiene, including oral suctioning for mouth care. Mouth care for clients who are unconscious shall be performed by an agency licensed as a home health agency or home nursing agency.
- I) Nail care. A home services worker may assist with nail care. This assistance may include soaking of nails, pushing back cuticles without utensils, and filing of nails. Assistance by a home services worker may not include nail trimming. Clients with a medical condition that might involve peripheral circulatory problems or loss of sensation shall be under the care of an agency licensed as a home health agency or home nursing agency to meet this need.
- J) Positioning. A home services worker may assist a client with positioning when the client is able to identify to the personal care staff, either verbally, non-verbally or through others, when the position needs to be changed, only when skilled skin care, as previously described, is not required in conjunction with the position. Positioning may include simple alignment in a bed, wheelchair, or other furniture.
- K) Shaving. A home services worker may assist a client with shaving only with an electric or a safety razor.
- L) Toileting. A home services worker may assist a client to and from the bathroom, provide assistance with bed pans, urinals, and

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commodes; provide pericare; or change clothing and pads of any kind used for the care of incontinence.

i) A home services worker may empty or change external urinary collection devices, such as catheter bags or suprapubic catheter bags. In all cases, the insertion and removal of catheters and care of external catheters is considered skilled care and shall not be performed by a home services worker.

ii) A home services worker may empty ostomy bags and provide assistance with other client-directed ostomy care only when there is no need for skilled skin care or for observation or reporting to a nurse. A home services worker shall not perform digital stimulation, insert suppositories, or give an enema.

M) Transfers. A home services worker may assist with transfers only when the client has sufficient balance and strength to reliably stand and pivot and assist with the transfer to some extent. Adaptive and safety equipment may be used in transfers, provided that the client is fully trained in the use of the equipment and can direct the transfer step by step. Adaptive equipment may include, but is not limited to, wheel chairs, tub seats, and grab bars. Gait belts may be used as a safety device for the home services worker as long as the worker has been properly trained in their use. In general, a home services worker may not assist with transfers when the client is unable to assist with the transfer. Home services workers may assist clients in the use of a mechanical or electrical transfer device only when the following conditions are met:

i) The home services worker must have been trained in the use of the mechanical or electrical transfer device by the licensed agency;

ii) The client or client representative must be able to direct the transfer step by step; and

iii) The agency must have conducted a competency evaluation

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of the worker using the type of device that is available in the home.

- N) Medication reminding. A home services worker may assist a client with medication reminding only when medications have been pre-selected by the client, a family member, a nurse, or a pharmacist and are stored in containers other than the prescription bottles, such as medication minders. Medication minder containers shall be clearly marked as to day and time of dosage. Medication reminding includes: inquiries as to whether medications were taken; verbal prompting to take medications; handing the appropriately marked medication minder container to the client; and opening the appropriately marked medication minder container for the client if the client is physically unable to open the container. These limitations apply to all prescription and all over-the-counter medications. The home services worker shall immediately report to the supervisor any irregularities noted in the pre-selected medications, such as medications taken too often or not often enough, or not at the correct time as identified in the written instructions.
  
- O) A home services worker shall not provide respiratory care. Respiratory care is skilled and includes postural drainage, cupping, adjusting oxygen flow within established parameters, nasal, endotracheal, and tracheal suctioning, and turning off or changing tanks. However, home services workers may temporarily remove and replace a cannula or mask from the client's face for the purposes of shaving or washing a client's face and may provide oral suctioning.
  
- 5) In addition to the exclusions prescribed in the preceding subsections, home services workers shall not act in the following capacities:
  - A) Provide skilled personal care services as defined in this Part;
  
  - B) Become or act as a Power of Attorney;
  
  - C) Be involved in any financial transactions of the client outside of contracted services. In such cases, the home services worker shall

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follow agency policies in regard to securing receipts for items purchased and ensuring both client and worker signatures documenting those expenditures;

D) Perform or provide medication setup for a client; and

E) Other actions specifically prohibited by agency policy.

6) Supervision of a home services worker or aide shall include the following (these provisions do not apply to placement agencies):

A) An individual who is in a supervisory capacity shall be designated and available to the worker for questions at all times.

B) On-site supervision shall take place at a minimum every 90 days or more often if the plan of service requires it.

C) Supervision does not constitute time or an activity that can be billed as a service to the client/consumer.

d)e) Licensed Practical Nurse

1) The licensed practical nurse may perform selected acts in accordance with the ~~Illinois Nursing and Advanced Practice Nursing Act of 1987 [225 ILCS 65]~~, including the administration of treatments and medications in the care of the ill, injured, or infirm, the maintenance of health, and prevention of illness, under the direction of a registered nurse.

2) The licensed practical nurse shall report changes in the patient's condition to the registered nurse, and these reports shall be documented in the clinical notes.

3) The licensed practical nurse shall prepare clinical notes for the clinical records.

e)d) Medical Social Worker. When provided, medical social services shall be given by a social worker or by a social work assistant under the supervision of a social worker in accordance with the plan of treatment. These services shall include the following:

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- 1) Assist the physician or podiatrist and other members of the health team in understanding significant social and emotional factors related to the patient's health problems.
- 2) Assess the social and emotional factors in order to estimate the patient's capacity and potential to cope with the problems of daily living.
- 3) Help the patient and family to understand, accept, and follow medical recommendations and provide services planned to restore the patient to the optimum social and health adjustment within the patient's capacity.
- 4) Assist the patient and facility with personal and environmental difficulties ~~that~~which predispose toward illness or interfere with obtaining maximum benefits from medical care.
- 5) Utilize all available resources, such as family and community agencies, to assist the patient to resume life in the community or to live within the disability.
- 6) Observe, record, and report social and emotional changes.
- 7) Prepare clinical and progress notes for the clinical record.
- 8) Supervision of the social work assistant shall include the following:
  - A) A licensed social worker must be accessible by telephone to the social work assistant at all times while the social work assistant is treating patients.
  - B) On-site supervision ~~shall~~should take place every four to six visits. The supervisory visits may be made either when the social work assistant is present so that the supervisor may observe and assist, or when the social work assistant is absent so that the supervisor may assess relationships and determine whether goals are being met.
  - C) Supervision does not constitute treatment.

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- D) The supervisory visit ~~shall~~should include a complete on-site assessment, an on-site review of activities with appropriate revision of treatment plan, and an assessment of the utilization of outside resources.

~~f)~~ Occupational Therapist and Occupational Therapy Assistant. When provided, occupational therapy services shall be ~~provided~~given by an occupational therapist or by an occupational therapy assistant under the supervision of an occupational therapist in accordance with the plan of treatment. These services shall include the following:

- 1) Assist the physician or podiatrist in evaluating the patient's level of function by applying diagnostic and prognostic procedures.
- 2) Guide the patient in the use of therapeutic creative and self-care activities for the purpose of improving function.
- 3) Observe, record and report to the physician or podiatrist the patient's reaction to treatment and any changes in the patient's condition.
- 4) Instruct other health team personnel, including, when appropriate, home health aides and family members in certain phases of occupational therapy in which they may work with the patient.
- 5) Prepare clinical and progress notes for the clinical record.
- 6) Supervision of the occupational therapy assistant shall include the following:
  - A) A licensed occupational therapist ~~shall~~must be accessible by telephone to the occupational therapy assistant at all times while the occupational therapy assistant is treating patients.
  - B) On-site supervision ~~shall~~should take place every four to six visits. The supervisory visits may be made either when the occupational therapy assistant is present so that the supervisor may observe and assist, or when the occupational therapy assistant is absent so that the supervisor may assess relationships and determine whether goals are being met.

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- C) Supervision does not constitute treatment.
- D) The supervisory visit ~~shall~~should include a complete on-site functional assessment, an on-site review of activities with appropriate revision of treatment plan, and an assessment of the utilization of outside resources.

~~g)~~ Physical Therapist and Physical Therapist Assistant

- 1) When provided, physical therapy services shall be given by a physical therapist or by a physical therapist assistant under the supervision of a physical therapist in accordance with the plan of treatment. These services shall include the following:
  - A) Review and evaluate physician's or podiatrist's referral and patient's medical record to determine physical therapy required.
  - B) Plan and prepare a written treatment program based on the evaluation of available patient data.
  - C) Perform patient tests, measurements, and evaluations, such as range-of-motion and manual muscle tests, gait and functional analyses, and body parts measurements, and record and evaluate findings to aid in establishing or revising specifics of treatment programs.
  - D) Plan and administer prescribed physical therapy treatment programs for patients to restore function, relieve pain, and prevent disability following disease, injury or loss of body part.
  - E) Administer manual therapeutic exercises to improve or maintain muscle function, applying precise amounts of manual force and guiding patient's body parts through selective patterns and degrees of movement. Instruct, motivate and assist patient in non-manual exercises, such as active regimens, isometric, and progressive resistive, and in functional activities using available equipment and assistive and supportive devices, such as crutches, walkers, canes, orthoses and prostheses. Administer treatment involving

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application of physical agents, such as heat, light, cold, water, and electricity. Administer traction and massage. Evaluate, fit, and adjust prosthetic and orthotic devices and recommend modifications to the orthotist/prosthetist.

- F) Observe, record, and report to the physician or podiatrist the patient's treatment, response, and progress.
  - G) Instruct other health team personnel, including, when appropriate, home health aides and family members in certain phases of physical therapy with which they may work with the patient.
  - H) Instruct patient and family in total physical therapy program.
  - I) Prepare clinical and progress notes for the clinical record.
- 2) Supervision of the physical therapist assistant shall include the following:
- A) A licensed physical therapist ~~shall~~must be accessible by telephone to the physical therapist assistant at all times while the physical therapist assistant is treating patients.
  - B) On-site supervision ~~shall~~should take place every four to six visits. The supervisory visits may be made either when the physical therapist assistant is present so that the supervisor may observe and assist, or when the physical therapist assistant is absent so that the supervisor may assess relationships and determine whether goals are being met.
  - C) Supervision does not constitute treatment.
  - D) The supervisory visit ~~shall~~should include a complete on-site functional assessment, an on-site review of activities with appropriate revision of treatment plan, and an assessment of the utilization of outside resources.
- 3) The physical therapist assistant shall:
- A) Be directed by and under the supervision of a licensed physical

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therapist.

- B) Administer the physical therapy program as established by the physical therapist.
- C) Administer non-complex active and passive manual therapeutic exercises, therapeutic massage, traction, heat, light, cold, water, and electrical modalities to patients with relatively stable conditions.
- D) Instruct, motivate, and assist patients in learning and improving functional activities, such as perambulation, transfers, ambulation, and activities of daily living.
- E) Observe patient's progress and response to treatment, and report to the physical therapist.
- F) Confer with members of the health care team for planning, modifying, and coordinating treatment programs.

h)g) Registered Nurse (RN). Skilled nursing service shall be provided~~given~~ by a registered nurse in accordance with the plan of treatment. These services shall include the following:

- 1) Be responsible~~Have the responsibility~~ for the observation, assessment, nursing diagnosis, counsel, care, and health teaching of the ill, injured, or infirm, and the maintenance of health and prevention of illness of others.
- 2) Maintain a clinical record for each patient receiving care.
- 3) Provide progress notes to the patient's physician or podiatrist about patients under care when the patient's conditions change or there are deviations from the plan of care, or at least every sixty days.
- 4) In the case of an RN working as a part of a home health or home nursing agency, make~~Make~~ home health aide assignments, prepare written instructions for the aide, and supervise the aide in the home.
- 5) Direct the activities of the licensed practical nurse.

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- 6) Administer medications and treatments as prescribed by the patient's physician or podiatrist.
  - 7) Act as the coordinator of the health care team in order to maintain the proper linkages within a continuum of care.
- i)h) Speech-Language Pathologist. When provided, speech therapy services shall be provided~~given~~ by a speech-language pathologist in accordance with the plan of treatment. These services shall include the following:
- 1) Assist the physician in determining and recommending appropriate speech and hearing services.
  - 2) Evaluate the patient's speech and language abilities and establish a plan of treatment.
  - 3) Provide rehabilitation services for speech and language disorders.
  - 4) Record and report to the patient's physician the patient's progress in treatment and any changes in the patient's condition and plan of care.
  - 5) Instruct other health team personnel and family members in methods of assisting the patient in improving communication skills.
  - 6) Prepare clinical and progress notes for the clinical record.
- j)i) Audiologist. When provided, audiology services shall be provided~~given~~ by an audiologist in accordance with the plan of treatment. These services shall include the following:
- 1) Administer diagnostic hearing tests to evaluate the patient's audiological abilities.
  - 2) Assess the patient's need for amplification.
  - 3) Provide rehabilitative services for hearing disorders.
  - 4) Instruct other health team personnel and family members in methods of

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assisting the patient in improving communication skills.

- 5) Record and report to the patient's physician the patient's response to rehabilitative intervention.

k) Student Training Program. When an agency elects to participate with an educational institution to provide clinical experience for students as part of their health-related professional training, ~~there shall be~~ a written agreement between the agency and each educational institution shall. ~~The agreement must~~ specify the responsibilities of the agency and the educational institution. The agreement shall include, at a minimum, the following provisions:

- 1) The agency retains the responsibility for client care;
- 2) The educational institution retains the responsibility for student education;
- 3) Student~~The student~~ and faculty performance expectations;
- 4) Faculty supervision of undergraduate students in the clinic and the field;
- 5) Ratio of faculty to students;
- 6) Confidentiality regarding patient information;
- 7) Required insurance coverage; and;
- 8) Provisions for joint evaluation by the agency and faculty to jointly evaluate of the students' performance and of the training program.

(Source: Amended at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 245.50 Services (Repealed)

a) Services Provided

- 1) ~~Each agency shall provide skilled nursing service and at least one other home health service on a part time or intermittent basis. The basic skilled nursing service shall be provided directly by agency staff. Other home~~

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~~health services may be provided by agency staff directly or through a contractual purchase of services. Additional skilled specialty nursing services and use of additional nursing staff to meet changes in caseload may be provided by contract. All services shall be provided in accordance with the orders of the patient's physician or podiatrist, under a plan of treatment established by such physician or podiatrist, and under the supervision of agency staff.~~

- ~~2) The agency shall state in writing what services will be provided directly and what services will be provided under contractual arrangements.~~
- ~~3) Services provided under contractual arrangements shall be through a written agreement that includes but is not limited to the following:
  - ~~A) Services to be provided.~~
  - ~~B) Provision for adherence to all applicable agency policies and personnel requirements, including requirements for initial health evaluations and employee health policies.~~
  - ~~C) Designation of full responsibility for agency control over contracted services.~~
  - ~~D) Procedures for submitting clinical and progress notes.~~
  - ~~E) Charges for contracted services.~~
  - ~~F) Statement of responsibility of liability and insurance coverage.~~
  - ~~G) Period of time in effect.~~
  - ~~H) Date and signatures of appropriate authorities.~~
  - ~~I) Provision for termination.~~~~
- ~~b) Acceptance of Patients. Patient acceptance and discharge policies shall include but not be limited to the following:
  - ~~1) Persons shall be accepted for health service on a part time or intermittent~~~~

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~~basis upon a plan of treatment established by the patient's physician or podiatrist. This plan shall be in writing within 14 days after acceptance and signed by the physician within 30 days from the start of care date.~~

- ~~2) Prior to acceptance, the person shall be informed of the agency's charges for the various services that it offers.~~
  - ~~3) No person shall be refused service because of age, race, color, sex, marital status, national origin or source of payment. An agency is not required to accept a patient whose source of payment is less than the cost of the service.~~
  - ~~4) Patients are accepted for treatment on the basis of a reasonable expectation that the patient's medical, nursing, and social needs can be met adequately by the agency in the patient's place of residence.~~
  - ~~5) When services are to be terminated by the home health agency, the patient is to be notified three working days in advance of the date of termination, stating the reason for termination. This information shall be documented in the clinical record. When indicated, a plan shall be developed or a referral made for any continuing care.~~
  - ~~6) Services shall not be terminated until such time as the registered nurse, the appropriate therapist, or both, in consultation with the patient's physician or podiatrist, deem it appropriate or arrangements are made for continuing care.~~
- e) Plan of Treatment
- 1) ~~Skilled nursing and other home health services shall be in accordance with a plan based on the patient's diagnosis and assessment of the patient's immediate and long range needs and resources. The plan of treatment is established in consultation with the home health services team, which includes the patient's physician or podiatrist, pertinent members of the agency staff, the patient and members of the patient's family. The plan of treatment shall include:~~
    - A) ~~Diagnoses.~~

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- B) ~~Functional limitations and rehabilitation potential.~~
  - C) ~~Expected outcomes for the patient.~~
  - D) ~~The patient's physician's or podiatrist's regimen of:~~
    - i) ~~Medications;~~
    - ii) ~~Treatments;~~
    - iii) ~~Activity;~~
    - iv) ~~Diet;~~
    - v) ~~Specific procedures deemed essential for the health and safety of the patient;~~
    - vi) ~~Mental status;~~
    - vii) ~~Frequency of visits;~~
    - viii) ~~Equipment required;~~
    - ix) ~~Instructions for timely discharge or referral; and~~
    - x) ~~Assessed need for influenza and pneumococcal vaccinations.~~
  - E) ~~The patient's physician's or podiatrist's signature and date.~~
- 2) ~~Consultation with the patient's physician or podiatrist on any modifications in the plan of treatment deemed necessary shall be documented, and the patient's physician's or podiatrist's signature shall be obtained within 30 days after any modification of the medical plan of treatment.~~
- 3) ~~The plan shall be reviewed by the home health services team every 62 days or more often should the patient's condition warrant.~~

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- 4) ~~An updated plan of treatment shall be given to the patient's physician or podiatrist for review, for any necessary revisions, and for signature every 62 days or more often as indicated.~~
- d) ~~Patient Care Plan~~
  - 1) ~~Home health services from members of the agency staff as well as those under contractual arrangements shall be given in accordance with the plan of treatment and the patient care plan. The patient care plan shall be written by appropriate members of the home health services team based upon the plan of treatment and an assessment of the patient's needs, resources, family and environment. The initial assessment is to be made by a registered nurse. Assessment by other members of the health services team shall be made on orders of the patient's physician or podiatrist or by request of a registered nurse. In those circumstances where the patient's physician has ordered only therapy services, the appropriate therapist (physical therapist or speech language pathologist) may perform the initial assessment.~~
  - 2) ~~The patient care plan shall be updated as often as the patient's condition indicates. The plan shall be maintained as a permanent part of the patient's record. The patient care plan shall indicate:~~
    - A) ~~Patient problems.~~
    - B) ~~Patient's goals, family's goals, service goals.~~
    - C) ~~Service approaches to modify or eliminate problems.~~
    - D) ~~The staff responsible for a given element of service.~~
    - E) ~~Anticipated outcome of service approach with an estimated time frame for completion.~~
    - F) ~~Potential for discharge from service.~~
- e) ~~Clinical Records. Each patient shall have a clinical record, identifiable for home health services and maintained by the agency in accordance with accepted professional standards. Clinical records shall contain:~~

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- 1) ~~Appropriate identifying information for the patient, household members and caretakers, medical history and current findings.~~
- 2) ~~A plan of treatment signed by the patient's physician or podiatrist.~~
- 3) ~~A patient care plan developed by the home health services team that is in accord with the patient's physician's or podiatrist's plan of treatment.~~
- 4) ~~A medication list with dates reviewed, revised and date sent to the patient's physician or podiatrist.~~
- 5) ~~Initial and periodic patient assessments by the registered nurse, which include documentation of the patient's functional status and eligibility for service.~~
- 6) ~~Assessments made by other members of the home health services team.~~
- 7) ~~Signed and dated clinical notes for each contact, which are written the day of service and incorporated into the patient's clinical record at least weekly.~~
- 8) ~~Reports on all patient home health care conferences.~~
- 9) ~~Reports of contacts with the patient's physician or podiatrist by patient and staff.~~
- 10) ~~Indication of supervision of home health services by the supervising nurse, a registered nurse, or other members of the home health services team.~~
- 11) ~~Written summary reports sent to the patient's physician or podiatrist every 62 days containing home health services provided, the patient's status, recommendations for revision of the plan of treatment and the need for continuation or termination of services noted.~~
- 12) ~~Written and signed confirmation of the patient's physician's or podiatrist's interim verbal orders.~~

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- 13) ~~A discharge summary giving a brief review of service, patient status, reason or reasons for discharge and plans for post discharge needs of the patient. A discharge summary may suffice as documentation to close the patient record for one time visits and short term or event focused or diagnosis focused interventions. The discharge summary need not be a separate piece of paper and may be incorporated into the routine summary reports already furnished to the physician.~~
  - 14) ~~A copy of appropriate patient transfer information, when requested, if the patient is transferred to another health facility or health agency.~~
  - 15) ~~Each agency shall have a written policy on records procedures and shall retain records for a minimum of five years beyond the last date of service provided. These procedures may include that the agency will utilize and maintain faxed copies of records from licensed professionals, rather than original records, provided that the faxed copies will be maintained on nonthermal paper and that the original records will be maintained for a period of five years by the professional who originated the records. If that professional is providing services through a contract with the agency, then the contract must include that the original records must be maintained for a period of five years by the professional.~~
  - 16) ~~Those agencies which are subject to the Local Records Act should note that *except as otherwise provided by law, no public record shall be disposed of by any officer or agency unless the written approval of the appropriate Local Records Commission is first obtained.* (Section 7 of the Local Records Act [50 ILCS 205/7])~~
  - 17) ~~Each agency shall have a written policy and procedure for the protection of confidentiality of patient records, which explains the use of records, removal of records and release of information.~~
- f) ~~Drugs and Biologicals. The agency shall have written policies governing the supervision and administration of drugs and biologicals, which shall include but not be limited to the following:~~
- 1) ~~All orders for medications to be given shall be dated and signed by the patient's physician or podiatrist.~~

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- 2) ~~Drugs and treatments are administered by agency staff only as ordered by the physician, with the exception of influenza and pneumococcal polysaccharide vaccines, which may be administered per agency policy developed in consultation with a physician and after an assessment of the patient.~~
- 3) ~~All orders for medications shall contain the name of the drug, dosage, frequency, method or site of injection and permission from the patient's physician or podiatrist if the patient, the patient's family, or both are to be taught to give medications.~~
- 4) ~~The agency's physician or podiatrist or registered nurse shall check all medicines a patient may be taking to identify possible ineffective drug therapy or adverse reactions, significant side effects, drug allergies, and contraindicated medications and shall promptly report any problem to the patient's physician or podiatrist.~~
- 5) ~~All verbal orders for medication or change in medication orders shall be taken by the registered nurse, written, and signed by the patient's physician or podiatrist within 30 days.~~
- 6) ~~When any experimental drug, sera, allergenic desensitizing agent, penicillin or any other potentially hazardous drug is administered, the registered nurse administering such drugs shall have an emergency plan and any drugs and devices that may be necessary in the event of a drug reaction.~~
- g) ~~Evaluation. The home health agency shall have written policies and shall make an overall evaluation of the agency's total program at least once a year. This evaluation shall be made by the Professional Advisory Group (or a committee of this group), home health agency staff, consumers, or representation from professional disciplines that are participating in the provision of home health services. The evaluation shall consist of an overall policy and administrative review and a clinical record review. The evaluation shall assess the extent to which the agency's program is appropriate, adequate, effective and efficient. Results of the evaluation shall be reported to and acted upon by those responsible for the operation of the agency and maintained separately as administrative records.~~

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- h) ~~Policy and Administrative Review. As a part of the evaluation process, the policies and administrative practices of the agency shall be reviewed to determine the extent to which they promote patient care that is appropriate, adequate, effective and efficient. Mechanisms shall be established in writing for the collection of pertinent data to assist in evaluation. The data to be considered may include but are not limited to: number of patients receiving each service offered, number of patient visits, reasons for discharge, breakdown by diagnosis, sources of referral, number of patients not accepted with reasons and total staff days for each service offered.~~
- i) ~~Clinical Record Review~~
- 1) ~~At least quarterly, members of professional disciplines representing at least the scope of the agency's programs shall review a sample of both active and closed clinical records to assure that established policies are followed in providing services (direct, as well as those under contractual arrangement). This review shall include, but not be limited to:~~
- A) ~~Whether the patient care plan was directly related to the stated diagnosis and plan of treatment;~~
- B) ~~Whether the frequency of visits was consistent with the plan of treatment;~~
- C) ~~Whether the services could have been provided in a shorter span of time.~~
- 2) ~~Clinical records shall be reviewed continually for each 62 day period that a patient received home health services to determine the adequacy of the plan of treatment and the appropriateness of continuing home health care.~~

(Source: Repealed at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 245.60 Annual Financial Statement – Home Health Agencies

- a) *Each home health agency licensee shall file annually an attested financial statement on a form prescribed, prepared and furnished by the Department in conjunction with the Illinois Department of Public Aid. The application shall contain such information as may be required by the Department and the Illinois*

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*Department of Public Aid for the proper administration of the Act and this Part. An audited financial statement may be required of a particular facility, if the director determines that additional information is needed. (Section 11(a) of the Act)*

- b) *No public funds shall be expended for the services of a home health agency which has failed to file the financial statement required by this Section. (Section 11(b) of the Act)*
- c) *No other state agency may require submission of financial data except as expressly authorized by law or as necessary to meet requirements of federal law or regulation. (Section 11(d) of the Act)*
- d) *Information obtained under this Section shall be made available, upon request, by the Department only to any other state agency or legislative commission to which such information is necessary for investigations or to execute the intent of state or federal law or regulation. (Section 11(d) of the Act)*

(Source: Amended at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 245.70 Home Health Aide Training

- a) Each home health agency shall ensure that all persons employed as home health aides or under any other title, whose duties are to assist with the personal, nursing, or medical care of the patients, and who are not otherwise licensed, certified, or registered in accordance with Illinois law to render such care, comply with one of the following conditions:
  - 1) Is approved on the Department's Health Care Worker Nurse Aide Registry. "Approved" means that the home health aide has met the training or equivalency requirements of this Section and does not have a disqualifying background check without a waiver (see Section 245.72);
  - 2) Meets training requirements by completion of a training program approved under the Long-Term Care Assistants and Aides Training Programs Code (see 77 Ill. Adm. Code 395); or
  - 3) Meets equivalencies established in subsection (b) of this Section.

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- b) Equivalency may be established by any one of the following:
  - 1) Documentation of current registration from another state.
  - 2) Documentation of successful completion of a nursing arts course, which included at least 40 hours of supervised clinical experience, in an accredited nurse training program as evidenced by diploma, certificate, or other written verification from the school, and successful completion of the written portion of the Department-established nursing assistant competency test.
  - 3) Documentation of successful completion of a United States military training program that includes the content of the Basic Nursing Assistant Training Program (see 77 Ill. Adm. Code 395), as evidenced by a diploma, certification, DD-214, or other written verification and successful completion of the written portion of the Department-established nursing assistant competency evaluation.
  - 4) Documentation of completion of a nursing program in a foreign country, including the following, and successful completion of the written portion of the Department-established competency test:
    - A) A copy of the license, diploma, registration, or other proof of completion of the program;
    - B) A copy of the Social Security card; and
    - C) Visa or proof of citizenship.
- c) Requests to establish equivalency shall be submitted to the Department with accompanying documentation.
- d) The home health agency is responsible for assuring that the individuals who furnish home health aide services on its behalf are competent to carry out assigned tasks in the patient's place of residence. The competency evaluation conducted by a registered nurse in the home health agency shall address each of the following subjects:
  - 1) Communication skills;

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- 2) Observation, reporting, and documentation of patient status and the care or service furnished;
- 3) Reading and recording temperature, pulse, and respiration;
- 4) Basic infection control procedures;
- 5) Basic elements of body functioning and changes in body function that must be reported to an aide's supervisor;
- 6) Maintenance of a clean, safe, and healthy environment;
- 7) Recognizing emergencies and knowledge of emergency procedures;
- 8) The physical, emotional, and developmental needs of and ways to work with the populations served by the home health agency, including the need for respect for the patient, his or her privacy, and his or her property;
- 9) Appropriate and safe techniques in personal hygiene and grooming that include:
  - A) Bed bath;
  - B) Sponge, tub, or shower bath;
  - C) Shampoo - sink, tub, or bed;
  - D) Nail and skin care;
  - E) Oral hygiene; and
  - F) Toileting and elimination;
- 10) Safe transfer techniques and ambulation;
- 11) Normal range of motion and positioning;
- 12) Adequate nutrition and fluid intake; and

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- 13) Any other task that the agency may choose to have the home health aide perform.
- e) A home health agency shall not employ an individual as a home health aide unless the Agency has inquired of the Department as to information in the Health Care Worker ~~Nurse Aide~~ Registry concerning findings of abuse, neglect, or misappropriation of property.

(Source: Amended 31 Ill. Reg. \_\_\_\_\_ effective \_\_\_\_\_)

Section 245.71 Qualifications and Requirements for Home Services Workers

- a) Each agency shall ensure and maintain documentation in the employee file that all persons employed or providing services as an in-home services worker, and who are not otherwise licensed, certified, or registered in accordance with Illinois law to render such care, comply with the following conditions:
- 1) Does not have a disqualifying background check under the requirements of the Health Care Worker Background Check Act [225 ILCS 46] without a waiver;
  - 2) Has a copy of the Social Security card; and
  - 3) Has visa or proof of citizenship in compliance with federal requirements for employment.
- b) Each agency shall provide a minimum of eight hours of training for each home services worker prior to his or her first assignment. The training shall include all of the items noted in subsection (c) of this Section.
- c) The agency is responsible for assuring that the individuals who furnish home services on its behalf are competent to carry out assigned tasks in the client's place of residence. There shall be proof of a competency evaluation conducted by the agency. The competency evaluation shall address each of the following subjects:
- 1) The employee's job responsibilities and limitations;

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- 2) Communication skills in areas such as with persons who are hard of hearing, have dementia, or have other special needs;
  - 3) Observation, reporting, and documentation of client status and the service furnished, including changes in functional ability and mental status demonstrated by the client;
  - 4) Performance of personal care tasks for clients, including bathing; skin care; hair care; nail care; mouth care; shaving; dressing; feeding; assistance with ambulation; exercise and transfers; positions; bladder and bowel care; and medication reminding;
  - 5) Performance of ability to assist in the use of specific adaptive equipment, such as a mechanical lifting device, if the worker will be working with clients who use the device;
  - 6) Basic hygiene and basic infection control practices;
  - 7) Maintenance of a clean, safe, and healthy environment;
  - 8) Basic personal and environmental safety precautions;
  - 9) Recognizing emergencies and knowledge of emergency procedures, including basic first aid and implementation of a client's emergency preparedness plan;
  - 10) Confidentiality of client personal, financial, and health information;
  - 11) Behaviors that would constitute abuse or neglect and the legal prohibitions against such behaviors, as well as knowledge and understanding of abuse and neglect prevention and reporting requirements; and
  - 12) Any other task that the agency may choose to have the worker perform.
- d) All home services staff shall complete a minimum of eight hours of training, which can include self-study courses with demonstration of learned concepts that are applicable to the employee's responsibilities, every 12 months after the starting date of employment. Training shall include:

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- 1) Promoting client dignity, independence, self-determination, privacy, choice, and rights;
  - 2) Disaster procedures;
  - 3) Hygiene and infection control; and
  - 4) Abuse and neglect prevention and reporting requirements.
- e) All training shall be documented with the date of the training; starting and ending times; instructors and their qualifications; short description of content; and staff member's signature.

(Source: Added at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 245.75 Infection Control

- a) Each agency shall develop and implement policies and procedures for investigating, controlling, and preventing infections.
- b) Each agency shall adhere, at a minimum and as appropriate, to the guidelines of the Center for Infectious Diseases, Centers for Disease Control and Prevention, United States Public Health Service, Department of Health and Human Services, as noted in Section 245.25.

(Source: Added at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART C: LICENSURE PROCEDURES

Section 245.80 Licensure Required

- a) *No person shall open, manage, conduct or maintain a home health agency without a license issued by the Department. (Section 3 of the Act)*
- b) *On and after September 1, 2008, no person shall open, manage, conduct, or maintain a home services agency, or advertise himself or herself as a home services agency or as offering services that would be included in the definition of home services or a home services agency, without a license issued by the Department. (Section 3.3 of the Act)*

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- c) On and after September 1, 2008, no person shall open, manage, conduct, or maintain a home nursing agency, or advertise himself or herself as a home nursing agency or as offering services that would be included in the definition of a home nursing agency, without a license issued by the Department. (Section 3.7 of the Act)
- d) License Nontransferable
- 1) Each license shall be issued only for the ~~specific home health~~ agency named in the application and shall not be transferred or assigned to any other person, agency, or corporation.
  - 2) Sale, assignment, lease or other transfer, voluntary or involuntary, shall require relicensure by the new owner ~~or person in interest~~ prior to maintaining, operating, or conducting ~~an a home health~~ agency.
  - 3) In the case of agencies operating under a franchise arrangement, each unique business entity shall obtain and maintain a distinct license and shall not share licensure based on franchised name status.
- e) Each license shall be for a term of one year and shall expire one year from the date of issuance. However, initial licenses shall expire one year from the end of the month in which the initial license was issued.
- d) ~~Subunits. A separate license for the operation of a home health agency is required for each home health agency subunit. A separate license application and fee must be submitted for each home health agency subunit.~~
- f) Out-of-State Agencies. A license is required for any ~~home health~~ agency providing care in Illinois; or functioning in a capacity of matching workers with clients or consumers for home nursing or home service care, including internet matching services where the parent agency is domiciled in a state other than Illinois. In such cases, the following conditions ~~shall~~must be met:
- 1) The licensee ~~shall~~must be registered to do business in Illinois under the Business Corporation Act of 1938 [805 ILCS 5](~~Ill. Rev. Stat. 1989, ch. 32, par. 1.01 et seq.~~) or otherwise authorized to do business in Illinois.

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- 2) The licensee ~~shall~~must have an office in Illinois.
  - 3) All professional care supervisory and staff personnel caring for patients or clients residing in Illinois ~~shall,~~will be subject to any licensure, certification, or registration ~~that~~which is required to perform the respective service in Illinois, and shall be so licensed, certified, or registered.
- g)f) The licensee shall notify the Department in writing not less than 30 days prior to closing the ~~home health~~ agency.
- h)g) *Any ~~home health~~ agency conducted by and for the adherents of any well recognized church or religious denomination for the purpose of providing services for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of such church or religious denomination is not subject to licensure. (Section 13 of the Act)*
- i) Subunits. A separate license for the operation of a home health agency is required for each home health agency subunit. A separate license application and fee shall be submitted for each home health agency subunit.

(Source: Amended at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 245.90 License Application

- a) Initial Application – All Agencies
  - 1) Any person who desires to obtain a license to operate a home health, home nursing, home services agency, home nursing placement agency, or a home service placement agency shall file a licensure application with the Department ~~a licensure application~~. Any person in interest, different from the licensee, who desires to conduct, maintain, or operate a home health, home nursing, home services, home nursing placement agency or home services placement agency shall also file an application for licensure with the Department.
  - 2) Each initial application for licensure shall be on forms provided by the Department, and shall contain the following information:
    - A) *Name, address, and location of the agency;*

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- B) *Organization and governing structure of the agency;*
- C) A description of the services to be provided;
- D) A list of the staff of the agency or a list of placement agency registry, including any applicable licensure, registration, or certification and any other *qualifications of the staff* of the agency;
- E) *Sources of financing of services* and any other sources of income of the agency;
- F) A description or map of the geographic *service area* in which services are provided by the agency;
- G) *Charges for services* by types of services provided by the agency; and;
- H) For home health agencies, copies ~~Copies~~ of any *affiliation agreements with other health care providers*. (Section 5(a) of the Act)

b) Renewal Application – All Agencies

- 1) Each licensee shall file a renewal application with the Department not less than 60 days, nor more than 90 days, prior to the expiration date of the licensee's current license.
- 2) Each renewal application shall be on forms provided by the Department and shall contain the information specified in subsection (a)(2) of this Section.

c) Renewal Application – Home Health Agencies

Applications for renewal of home health agency licenses will additionally contain~~Each renewal application shall also include~~ the following information:

- 1)A) *Patient load* data for the preceding year, including the number of patients discharged, the total number of patients who received services, the number of patients over 65 years of age who received services, and the number of

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patients being served at the end of the year; and-

2)B) *Agency utilization data, including the number of patients receiving specific types of services and the number of visits by types of services provided. (Section 5(a) of the Act)*

d) *An entity that meets the requirements for licensure under the Act and this Part may obtain licensure singly or in any combination for the categories authorized under the Act and this Part. (Section 4(d) of the Act)*

e) *One application for licensure shall be used even if a combination of licenses authorized under the Act and this Part is sought. Applicants for multiple licenses shall pay the higher of the licensure fees applicable. (Section 4(d) of the Act) The licensure fee under the multiple category shall not exceed \$1500 annually.*

e) ~~Each initial and renewal application shall be accompanied by a license fee of \$25. The fee is not refundable. (Section 4(c) of the Act)~~

f)d) The Department will review each application. The Department will approve the application and issue an initial or renewal license to the applicant for operation of ~~an~~ a home health agency; when it finds that the applicant meets all of the requirements of the Act and the standards established by the Department in this Part. The Department may also issue a provisional license, as provided in Section 4 of the Act and Section 245.100 of this Part, or deny an application, as provided in ~~Sections~~ Section 8 and 9 of the Act and Section 245.130 of this Part. (Section 4(c) of the Act)

(Source: Amended at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 245.95 License Application Fee

a) *Applicants for multiple licenses under this system shall pay the higher of the licensure fees applicable. (Section 4(d) of the Act)*

b) *A home nursing agency or a home service agency shall pay a licensure fee not to exceed \$1500. The fee is not refundable.*

c) *A Home Nursing Placement Agency or Home Services Placement Agency shall pay a licensure fee not to exceed \$500. The fee is not refundable.*

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- d) Home Health Agencies. For a single home health agency license only, each initial and renewal application shall be accompanied by a license fee of \$25. (Section 4(c) of the Act) The fee is not refundable.

(Source: Added at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 245.100 Provisional License

a) Provisional License for New Agencies

- 1) If the Department is unable to determine that the agency complies with the requirements of the Act and this Part from the information provided in the application, the Department may conduct an on-site survey. The Department shall issue a provisional license to an applicant for licensure when the applicant appears to comply with the requirements of the Act and this Part and either of the following conditions exists:
  - A) *The applicant for licensure has not previously been licensed.*
  - B) *The agency is not in operation at the time of the application. (Section 4(a) of the Act).*
- 2) *Within 30 days prior to the expiration of the provisional license, the Department shall inspect the agency. If the Department finds that the agency substantially meets the requirements of the Act and this Part, it shall issue a license. This license shall expire one year from the end of the month in which the provisional license was first issued. The initial license fee shall be applied to this license. (Section 4(a) of the Act)*

b) Provisional License for Operating Agencies

- 1) The Department shall issue a provisional license to an agency when it finds that all of the following conditions exist:
  - A) *The agency does not substantially comply with all of the requirements of the Act and this Part.*
  - B) *The violations of the requirements of the Act and this Part are not*

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serious enough to support adverse licensure action as provided under Sections 8 and 9 of the Act and Section 245.130 of this Part.

- C) *The health, ~~and~~ safety, and well-being of the patients ~~patients~~ and/or clients of the agency will be protected during the period for which ~~of~~ the provisional license is issued.* (Section 4(b)(1) of the Act)
- 2) *When a provisional license is issued to an operating agency, the Department shall notify the agency of the issuance of the provisional license. The notice to the agency shall include the following information:*
- A) *A description of the manner in which the agency fails to substantially comply with all of the requirements of the Act and this Part.*
  - B) *A description of the corrections which must be made by the ~~home health~~ agency to substantially comply with all of the requirements of the Act and this Part.*
  - C) *A specific time within which the necessary corrections shall be completed by the agency.* (Section 4(b)(2) of the Act)
- c) *A provisional license is valid for 120 days unless sooner suspended or revoked in accordance with Section 9 of the Act and Section 245.130 of this Part. A provisional license will be renewed for an additional 120 days when the Department finds that all of the following conditions exist:*
- 1) *The agency does not substantially meet all of the requirements of the Act and this Part.*
  - 2) *The agency has made significant progress toward correcting deficiencies and bringing the agency into full compliance with the requirements of the Act and this Part.*
  - 3) *The health, ~~and~~ safety, and well-being of the patients ~~patients~~ and/or clients of the agency will be protected during the period for which ~~of~~ the extension of the provisional license is extended.* (Section 4 of the Act)

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(Source: Amended at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 245.110 Inspections and Investigations

- a) *The Department will conduct such investigations and inspections of licensed agencies and of persons suspected of operating an agency without a license as it deems necessary to assess compliance with the Act and this Part. ~~The Department will conduct an investigation or inspection based on complaints received by the Department when it finds that the complaint alleges a violation of the Act or this Part and that a reasonable basis exists for the complaint.~~ (Section 9.01 of the Act)*
- b) *Agencies shall facilitate any necessary visits by the Department's staff to patients or clients in their homes during the Department's investigations or inspections. The Department will obtain consent from the patient or client prior to conducting direct observation of patient care or the provision of home services in the home during an investigation or inspection. (Section 9.01 of the Act)*
- c) *Agencies shall make available to the Department all books, records, policies and procedures, or any other materials requested during the course of an investigation or inspection. (Section 9.01 of the Act)*

(Source: Amended at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 245.115 Complaints

- a) Complaints in regard to agencies licensed under the Act and this Part may be submitted either in writing, by telephone or by other electronic means to the IDPH Central Complaint Registry.
- b) The Department will conduct an investigation of all complaints received. An appropriate investigation may include but may not be limited to record reviews and/or telephone interviews, on-site survey or a combination of methods.

(Source: Added at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 245.120 Violations

- a) Notice of Violation

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- 1) *When the Department determines that ~~ana home health~~ agency is in violation of the Act or this Part, A notice of violation shall be served on the licensee. The notice shall be served on the licensee personally or by certified mail. (Section 9.02 of the Act)*
- 2) *Each notice of violation shall be in writing and shall include:*
  - A) *A description of the nature of the violation.*
  - B) *Citation of the statutory provision or rule alleged to have been violated.*
  - C) *A statement that the agency must submit a plan of correction as provided under Section 9.03 of the Act and subsection (b) of this Section.*
  - D) *A description of additional action the Department may take under the Act, including adverse licensure action under Section 9 of the Act and Section 245.130 of this Part or assessment of a penalty under Section 9.04 of the Act and Section 245.140 of this Part.*
  - E) *A statement that the licensee has a right to a hearing to contest the violation as provided in Section 10 of the Act and Section 245.150 of this Part, and a description of the procedure for requesting a hearing. (Section 9.02 of the Act)*

b) Plan of Correction

- 1) *In response to the receipt of a notice of violation, the agency shall file with the Department a written plan of correction. Each plan of correction is subject to the approval of the Department and shall comply with the following requirements:*
  - A) *Be filed with the Department within 10 days of the agency's receipt of the notice of violation.*
  - B) *State with particularity the method by which the agency intends to correct each violation specified in the notice of violation.*

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- C) *Contain a stated date by which each violation will be corrected.*  
(Section 9.03 of the Act)
  - 2) The Department will review each plan of correction. If the Department finds that the plan of correction fails to comply with the requirements in subsection (b)(1) of this Section, the Department will *reject the plan of correction and notify the licensee of the rejection and the reason for the rejection.* (Section 9.03 of the Act)
  - 3) *The agency shall have 10 days after the receipt of a notice of rejection in which to submit a modified plan of correction.* The Department shall review each modified plan of correction. (Section 9.03 of the Act)
  - 4) The Department shall *reject a modified plan* and impose a plan of correction, which the *agency shall follow*, in any of the following conditions:
    - A) *The modified plan is not submitted on time.*
    - B) The modified plan fails to resolve the reasons for the rejection of the plan of correction.
    - C) The modified plan fails to *state with particularity the method by which the agency intends to correct each violation* specified in the notice of violation.
    - D) The modified plan fails to *contain a stated date by which each violation will be corrected.* (Section 9.03 of the Act)
- c) Hearing to Contest Violations
- 1) An agency may *contest any Department action under this Section by sending a written request for a hearing to the Department within 10 days of the receipt of the notice of the action being contested* as provided in Section 10 of the Act and Section 245.150 of this Part. (Section 9.03(c) of the Act)
  - 2) *Whenever possible, all action of the Department under this Section arising out of a violation shall be contested and determined at a single hearing.*

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(Section 9.03(c) of the Act)

(Source: Amended at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 245.130 Adverse Licensure Actions

- a) Adverse licensure actions include the denial of an initial license application, denial of an application for license renewal, revocation of a license, suspension of a license, and the imposition of a penalty or fine.
- b) Adverse licensure action shall be considered by the Department under the following conditions:
  - 1) Failure of the agency to meet the standards prescribed by the Department in this Part. (~~Section 8(a) of the Act~~)
  - 2) *Satisfactory evidence that the moral character of the applicant or supervisor of the agency is not reputable. In determining moral character, the Department may take into consideration any convictions of the applicant or supervisor for criminal offenses, but such convictions shall not operate as a bar to licensing.* (Section 8(b) of the Act)
  - 3) *Lack of personnel qualified by training and experience to properly perform the function of an ~~a home health~~ agency. This determination shall be based on the personnel requirements established in this Part.* (Section 8(c) of the Act)
  - 4) *Insufficient financial or other resources to operate and conduct a home health, home services or home nursing agency in accordance with the requirements of the Act and this Part.* (Section 8(d) of the Act)
  - 5) *Refusal to make books, records, policies and procedures, or any other materials requested during the course of an investigation or inspection available to the Department.* (Section 9.01 of the Act)
  - 6) *Violation of any provision of the Act or this Part.* (Section 9(a) of the Act)
  - 7) *Conduct or practice found by the Department to be detrimental to the health, safety or welfare of a patient or client.*

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- c) In determining whether to take adverse licensure action, the Department shall consider the following factors:
- 1) *The gravity of the violation, including the probability that death or serious physical or mental harm to a patient or client will result or has resulted and the severity of the actual or potential harm.*
  - 2) *The extent to which the provisions of the Act or this Part were violated.*
  - 3) *The reasonable diligence exercised by the licensee and any efforts by the licensee to correct the violations.*
  - 4) *Any previous violations committed by the licensee.*
  - 5) *The financial benefit to the agency of committing or continuing the violation. (Section 9.04(c) of the Act)*
- d) The Department shall deny an application for license renewal when the licensee *refuses to make payment at the time of the application for renewal of the license for penalties or fines ~~that which~~ have been imposed and added to the license fee. (Section 10.01(c) of the Act)*
- e) The Director will order an emergency suspension of a license, when the Director finds that continued operation of the agency poses an immediate and serious danger to the public health, safety, or welfare. The suspension shall take effect upon the issuance of an order of emergency suspension by the Director and shall remain in effect during any administrative proceeding contesting the action. Promptly following any emergency suspension of a license, the Department shall take action to revoke the license.
- f) Notice of Adverse Licensure Action
- 1) *The Department shall notify the applicant or licensee in writing before ~~in writing, prior to~~ denying an application, refusing to renew a license, or revoking a license. (Section 10(a) of the Act)*
  - 2) *The notice shall be served on the applicant or licensee either by personal service or by registered mail. The notice shall contain the following*

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information:

- A) A description of the *particular reasons for the proposed action*, including citations of the specific provisions of the Act and this Part under which the proposed action is being taken.
- B) The date, not less than 15 days from the date of the mailing or service of the notice, on which the action will take effect, unless appealed by the applicant or licensee.
- C) A description of the manner in which the applicant or licensee may appeal the proposed action and the right of the applicant or licensee to a hearing under Section 10 of the Act and Section 245.150 of this Part. (Section 10(b) of the Act)

(Source: Amended at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 245.150 Hearings

- a) Applicants for ~~ana-home health~~ agency license and licensees may appeal certain actions of the Department under the Act and this Part. Following receipt of an appeal or a request for a hearing from an applicant or licensee, the Department shall conduct a hearing to review the contested action.
- b) Hearings conducted pursuant to the Act and this Part shall be conducted in accordance with the following:
  - 1) Section 10 of the Act.
  - 2) The Illinois Administrative Procedure Act [5 ILCS 100](~~Ill. Rev. Stat. 1989, ch. 127, par. 1001 et seq.~~).
  - 3) The rules of the Department ~~titled~~entitled "Rules of Practice and Procedure in Administrative Hearings" (77 Ill. Adm. Code 100).
- c) Applicants and licensees have a right to administrative review of actions and decisions of the Department by the courts under the Administrative Review Law [735 ILCS 5](~~Ill. Rev. Stat. 1989, ch. 110, par. 3-101 et seq.~~).

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(Source: Amended at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART D: CLIENT/PATIENT SERVICES

Section 245.200 Services – Home Health

- a) Each home health agency shall provide skilled nursing service and at least one other home health service on a part-time or intermittent basis. The agency staff shall directly provide basic skilled nursing service. The agency staff may provide other home health services directly or through a contractual purchase of services. Additional skilled specialty nursing services and use of additional nursing staff to meet changes in caseload may be provided by contract. All services shall be provided in accordance with the orders of the patient’s physician or podiatrist, under a plan of treatment established by such physician or podiatrist, and under the supervision of agency staff.
- b) The agency shall state in writing what services will be provided directly and what services will be provided under contractual arrangements.
- c) Services provided under contractual arrangements shall be through a written agreement that includes, but is not limited to, the following:
  - 1) Services to be provided;
  - 2) Provision for adherence to all applicable agency policies and personnel requirements, including requirements for initial health evaluations and employee health policies;
  - 3) Designation of full responsibility for agency control over contracted services;
  - 4) Procedures for submitting clinical and progress notes;
  - 5) Charges for contracted services;
  - 6) Statement of responsibility of liability and insurance coverage;
  - 7) Period of time in effect;

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- 8) Date and signatures of appropriate authorities; and
  - 9) Provision for termination of services.
- d) Acceptance of Patients. Patient acceptance and discharge policies shall include, but not be limited to, the following:
- 1) Persons shall be accepted for health services on a part-time or intermittent basis in accordance with a plan of treatment established by the patient's physician or podiatrist. This plan shall be in writing within 14 days after acceptance and signed by the physician within 30 days from the start of the care date.
  - 2) Prior to acceptance of a patient, the agency shall inform the person of the agency's charges for the various services that it offers.
  - 3) No person shall be refused service because of age, race, color, sex, marital status, national origin, or source of payment. An agency is not required to accept a patient whose source of payment is less than the cost of services.
  - 4) Patients are accepted for treatment on the basis of a reasonable expectation that the patient's medical, nursing, and social needs can be met adequately by the agency in the patient's place of residence.
  - 5) When services are to be terminated by the home health agency, the patient is to be notified three working days in advance of the date of termination, stating the reason for termination. This information shall be documented in the clinical record. When indicated, a plan shall be developed or a referral made for any continuing care.
  - 6) Services shall not be terminated until such time as the registered nurse, or the appropriate therapist, or both, in consultation with the patient's physician or podiatrist, deem it appropriate or arrangements are made for continuing care.
- e) Plan of Treatment
- 1) Skilled nursing and other home health services shall be in accordance with a plan based on the patient's diagnosis and assessment of the patient's

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immediate and long-range needs and resources. The plan of treatment is established in consultation with the home health services team, which includes the patient's physician or podiatrist, pertinent members of the agency staff, the patient, and members of the patient's family. The plan of treatment shall include:

- A) Diagnoses;
- B) Functional limitations and rehabilitation potential;
- C) Expected outcomes for the patient;
- D) The patient's physician's or podiatrist's regimen of:
  - i) Medications;
  - ii) Treatments;
  - iii) Activity;
  - iv) Diet;
  - v) Specific procedures deemed essential for the health and safety of the patient;
  - vi) Mental status;
  - vii) Frequency of visits;
  - viii) Equipment required;
  - ix) Instructions for timely discharge or referral; and
  - x) Assessed need for influenza and pneumococcal vaccination.
- E) The patient's physician's or podiatrist's signature and date.
- f) Consultation with the patient's physician or podiatrist on any modifications in the

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plan of treatment deemed necessary shall be documented, and the patient's physician's or podiatrist's signature shall be obtained within 30 days after any modification of the medical plan of treatment.

- 1) The home health services team shall review the plan every 62 days, or more often if the patient's condition warrants.
- 2) An updated plan of treatment shall be given to the patient's physician or podiatrist for review, for any necessary revisions, and for signature every 62 days, or more often as indicated.

g) Patient Care Plan

- 1) Home health services from members of the agency staff as well as those under contractual arrangements shall be provided in accordance with the plan of treatment and the patient care plan. The patient care plan shall be written by appropriate members of the home health services team based upon the plan of treatment and an assessment of the patient's needs, resources, family, and environment. The initial assessment is to be made by a registered nurse. Assessment by other members of the health services team shall be made on orders of the patient's physician or podiatrist or by request of a registered nurse. In those circumstances where the patient's physician has ordered only therapy services, the appropriate therapist (physical therapist, speech-language pathologist or occupational therapist) may perform the initial assessment.
- 2) The patient care plan shall be updated as often as the patient's condition indicates. The plan shall be maintained as a permanent part of the patient's record. The patient care plan shall indicate:
  - A) Patient problems;
  - B) Patient's goals, family's goals, and service goals;
  - C) Service approaches to modify or eliminate problems;
  - D) The staff responsible for each element of service;
  - E) Anticipated outcome of service approach with an estimated time

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frame for completion; and

F) Potential for discharge from service.

h) Clinical Records.

1) Each patient shall have a clinical record, identifiable for home health services and maintained by the agency in accordance with accepted professional standards. Clinical records shall contain:

A) Appropriate identifying information for the patient, household members and caretakers, medical history, and current findings.

B) A plan of treatment signed by the patient's physician or podiatrist.

C) A patient care plan developed by the home health services team in accordance with the patient's physician's or podiatrist's plan of treatment.

D) A noted medication list with dates reviewed and revised and date sent to the patient's physician or podiatrist.

E) Initial and periodic patient assessments by the registered nursing, which include documentation of the patient's functional status and eligibility for service.

F) Assessments made by other members of the home health services team.

G) Signed and dated clinical notes for each contact, which are written the day of service and incorporated into the patient's clinical record at least weekly.

H) Reports on all patient home health care conferences.

I) Reports of contacts with the patient's physician or podiatrist by patient and staff.

J) Indication of supervision of home health services by the

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supervising nurse, a registered nurse, or other members of the home health services team.

- K) Written summary reports sent to the patient's physician or podiatrist every 62 days, containing home health services provided, the patient's status, recommendations for revision of the plan of treatment, and the need for continuation or termination of services.
- L) Written and signed confirmation of the patient's physician's or podiatrist's interim verbal orders.
- M) A discharge summary giving a brief review of service, patient status, reason or reasons for discharge, and plans for post discharge needs of the patient. A discharge summary may suffice as documentation to close the patient record for one-time visits and short-term or event-focused or diagnoses-focused interventions. The discharge summary need not be a separate piece of paper and may be incorporated into the routine summary of reports already furnished to the physician.
- N) A copy of appropriate patient transfer information, when requested, if the patient is transferred to another health facility or health agency.

2) Each agency shall have a written policy on records procedures and shall retain records for a minimum of five years beyond the last date of service provided. These procedures may include that the agency will use and maintain faxed copies of records from licensed professionals, rather than original records, provided that the faxed copies shall be maintained on non-thermal paper and that the original records shall be maintained for a period of five years by the professional who originated the records. If the professional is providing services through a contract with the agency, then the contract shall include that the professional shall maintain the original records for a period of five years.

3) Those agencies that are subject to the Local Records Act should note that except as otherwise provided by law, no public record shall be disposed of by any officer or agency unless the written approval of the appropriate

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Local Records Commission is first obtained. (Section 7 of the Local Records Act [50 ILCS 205/70])

- 4) Each agency shall have a written policy and procedure for the protection of confidentiality of patient records, which explains the use of records, removal of records and release of information.
- i) Drugs and Biologicals. The agency shall have written policies governing the supervision and administration of drugs and biologicals, which shall include, but not be limited to, the following:
  - 1) All orders for medications to be given shall be dated and signed by the patient's physician or podiatrist.
  - 2) Drugs and treatments are administered by agency staff only as ordered by the physician, with the exception of influenza and pneumococcal polysaccharide vaccines, which may be administered per agency policy developed in consultation with a physician, and after an assessment of the patient.
  - 3) All orders for medications shall contain the name of the drug, dosage, frequency, method or site of injection, and permission from the patient's physician or podiatrist if the patient, the patient's family, or both are to be taught to give medications.
  - 4) The agency's physician or podiatrist or registered nurse shall check all medicines a patient may be taking to identify possible ineffective drug therapy or adverse reactions, significant side effects, drug allergies, and contraindicated medications, and shall promptly report any problem to the patient's physician or podiatrist.
  - 5) All verbal orders for medication or change in medication orders shall be taken by the registered nurse, written, and signed by the patient's physician or podiatrist within 30 days after the verbal order.
  - 6) When any experimental drug, sera, allergenic desensitizing agent, penicillin or any other potentially hazardous drug is administered, the registered nurse administering such drugs shall have an emergency plan and any drugs and devices that may be necessary in the event of a drug

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- j) Evaluation. The home health agency shall have written policies and shall make an overall evaluation of the agency's total program at least once a year. This evaluation shall be made by the Professional Advisory Group (or a committee of this group), home health agency staff, consumers, or representation from professional disciplines that are participating in the provision of home health services. The evaluation shall consist of an overall policy and administrative review and a clinical record review. The evaluation shall assess the extent to which the agency's program is appropriate, adequate, effective, and efficient. Results of the evaluation shall be reported and acted upon by those responsible for the operation of the agency and maintained separately as administrative records.
  
- k) Policy and Administrative Review. As a part of the evaluation process, the policies and administrative practices of the agency shall be reviewed to determine the extent to which they promote patient care that is appropriate, adequate, effective, and efficient. Mechanisms shall be established in writing for the collection of pertinent data to assist in evaluation. The data to be considered may include, but are not limited to: number of patients receiving each service offered; number of patient visits; reasons for discharge; breakdown by diagnosis; sources of referral; number of patients not accepted, with reasons and total staff days for each service offered.
  
- l) Clinical Record Review.
  - 1) At least quarterly, members of professional disciplines representing at least the scope of the agency's programs shall review a sample of both active and closed clinical records to assure that established policies are followed in providing services (direct, as well as those under contractual arrangement). This review shall include, but not be limited to:
  
  - 2) Whether the patient care plan was directly related to the stated diagnosis and plan of treatment;
  
  - 3) Whether the frequency of visits was consistent with the plan of treatment; and
  
  - 4) Whether the services could have been provided in a shorter span of time.

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- 5) Clinical records shall be reviewed continually for each 62-day period that a patient received home health services to determine the adequacy of the plan of treatment and the appropriateness of continuing home health care.

(Source: Added at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 245.205 Services – Home Nursing Agencies

- a) Each home nursing agency shall provide skilled nursing services. Home nursing services may be provided directly by agency staff or through a contractual purchase of services. All services shall be provided in accordance with the orders of the client’s physician or podiatrist, or provided by a health care professional who has a working agreement with a physician and under the constraints of Illinois law that allows the individual to prescribe orders, such as a physician’s assistant or advance practice nurse, under a plan of treatment established by such physician, podiatrist, or prescribing professional, and under the supervision of agency staff.
- b) The agency shall state in writing to the client what services will be provided directly by agency staff, and what services will be provided under contractual arrangements.
- c) Acceptance and Discharge of Patients
- 1) Patient acceptance and discharge policies shall include, but not be limited to, the following:
- A) Persons shall be accepted for services with a plan of treatment established by the patient’s physician, podiatrist, or health care professional. This plan shall be in writing within 30 days after acceptance and shall be signed by the prescribing professional within 45 days after acceptance.
- B) Prior to acceptance, the person shall be informed of the agency’s charges for the various services that it offers.
- C) No person shall be refused service because of age, race, color, sex, marital status, national origin or sexual orientation. Patients are

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accepted for treatment on the basis of a reasonable expectation that the patient's nursing needs can be met adequately in the patient's place of residence.

D) When services are to be terminated by the agency, the patient is to be notified three working days in advance of the date of termination. The notice shall state the reason for termination. This information shall be documented in the clinical record. When indicated, a plan shall be developed or a referral made for any continuing care.

E) Services shall not be terminated until such time as the registered nurse has provided a minimum of three days notice to the patient's physician, podiatrist, or health care professional.

d) Plan of Treatment

1) Skilled nursing services shall be in accordance with a plan based on the client's diagnosis, an assessment of the client's immediate and long-range needs and resources, and client participation. The plan is to be established in consultation with the nursing personnel; the client's physician, podiatrist, or health care professional; other pertinent members of the agency staff; the client; and client's advocate. The plan shall include:

A) Diagnoses;

B) Client limitations and prognosis;

C) Expected outcomes for the client;

D) The prescribing professional's regimen of care designed to address identified client needs, including medications; treatments; activity; diet; specific procedures deemed essential for the health and safety of the client; mental status; and potential for discharge; and

E) The types and frequency of services to be provided.

e) Consultation with the client's physician, podiatrist, or health care professional on any modifications in the plan of treatment deemed necessary shall be

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documented, and the prescribing professional's signature shall be obtained within 45 days after any modifications of the plan.

- 1) The home nursing services team shall review the plan every 90 days, or more often should the patient's condition warrant.
- 2) An updated plan of treatment shall be given to the client's physician, podiatrist, or health care professional for review, for any necessary revisions, and for signature every 90 days, or more often as indicated.

f) Clinical Records.

- 1) Each client shall have a clinical record maintained by the agency in accordance with accepted professional standards. Clinical records shall contain:
  - A) Appropriate identifying information for the client, household members, and caretakers;
  - B) A plan of treatment developed by the home nursing agency in accord with the health care professional's order;
  - C) A list of medications the client is taking, which is updated as needed. The list shall specify the dose, method, route of administration, and frequency of administration of each medication. All potential contraindications, drug interactions, and adverse reactions shall be reported to the health care professional within 24 hours, or sooner as warranted, and documented in the clinical record;
  - D) Initial and periodic client assessments by the registered nurse;
  - E) Signed and dated clinical notes for each contact, which are written the day of service and incorporated into the client's clinical record at least weekly;
  - F) Reports on all client conferences;
  - G) Report of contracts with the client's physician, podiatrist, or health

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care professional by client and staff;

- H) Indication of supervision of services by the supervising nursing, a registered nurse, or other member(s) of the home nursing supervisory/management team;
- I) Written and signed confirmation of the client's physician's, podiatrist's or health care professional's interim verbal orders;
- J) A discharge summary giving a brief review of service, client status, reason or reasons for discharge, and plans for post discharge needs of the client. A discharge summary may suffice as documentation to close the client record for one-time visits or short-term;
- K) A copy of appropriate client transfer information, when requested, if the client is transferred to another health facility or health agency;

2) Each agency shall have a written policy on records procedures and shall retain records for a minimum of five years beyond the last date of service provided. The procedures may include that the agency will use and maintain faxed copies of records from licensed professionals, rather than original records, provided that the faxed copies will be maintained on non-thermal paper and that the original records will be maintained for a period of five years by the professional who originated the records. If that professional is providing services through a contract with the agency, then the contract shall provide that the professional maintain the original records for a period of five years.

3) Agencies that maintain client records by computer rather than hard copy may use electronic signatures. The agency shall have policies and procedures in place in regard to such entries and the appropriate authentication and dating of those records. Authentication may include signatures, written initials, or computer secure entry by a unique identifier of a primary author who has received and approved the entry. The agency shall have safeguards in place to prevent unauthorized access to the records and a process for reconstruction of the records in the event of a system failure or breakdown.

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- 4) Those agencies which are subject to the Local Records Act should note that *except otherwise provided by law, no public record shall be disposed of by any officer or agency unless the written approval of the appropriate Local Records Commission is first obtained.* (Section 7 of the Local Records Act [50 ILCS 205/70])
- 5) Each agency shall have a written policy and procedure for the protection of confidentiality of client records, which explains the use of records, removal of records and release of information.

g) Drugs and Biologicals

The agency shall have written policies governing the supervision and administration of drugs and biologicals, which shall include, but not be limited to, the following:

- 1) All orders for medications to be given shall be dated and signed by the client's physician, podiatrist, or health care professional.
- 2) All orders for medications shall contain the name of the drug, dosage, frequency, method, and route of administration, and permission from the prescribing professional if the client, the client's family, or both are to be taught to give medications.
- 3) All verbal orders for medication or change in medication orders shall be taken by the registered nurse, and written, and signed by the patient's healthcare professional within 45 days.
- 4) When any experimental drug, sera, allergenic desensitizing agent, penicillin or any other potentially hazardous drug is administered, the registered nurse administering such drugs shall have an emergency plan and any drugs and devices that may be necessary in the event of a drug reaction.

(Source: Added at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 245.210 Services – Home Services Agencies

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- a) Agencies licensed as home services agencies shall provide non-medical services that are intended to assist clients with activities of daily living, which would include, but not be limited to, activity of daily living support, personal care, medication reminding, housekeeping services, personal laundry, cooking, shopping, assistance in getting to and from appointments, maintenance of household records, and companionship. Each agency shall maintain a listing of the types of services offered by the agency, and the scope of the work to be provided under each area, which the agency shall distribute to clients before contracting with the client, with the signed contract, and annually thereafter.
- b) When services are provided to clients by a home service agency there shall be a written contractual agreement between the client and the agency, which includes but is not limited to:
- 1) Indication and assurance of compliance by the agency with the requirements of the licensing Act, including the Health Care Worker Background Check Act;
  - 2) Identification of party or parties responsible for payment of employment taxes, Social Security taxes, and workers' compensation;
  - 3) Information on the party or parties responsible for supervising workers, as well as hiring, firing and discipline of in home services workers;
  - 4) Identification of the charges to be paid, payment schedule, and to whom the client, or person acting on behalf of the client, is to make payments for services under the contract;
  - 5) Time period for contractual arrangement and conditions for termination of contract; and
  - 6) Contact information for the client to use in case of concerns, complaints, or questions on care to be provided.
- c) Acceptance of clients. Home Services Agencies shall develop and follow policies on acceptance and discharge of clients, which shall include, but not be limited to, the following:
- 1) Persons shall be accepted for service on the basis of their desire or need

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for household or personal support and/or companionship services. A home service agency shall not provide medical services that would be performed by an agency licensed as a home health agency or home nursing agency.

- 2) No person shall be refused services based on age, race, color, sex, marital status, or national origin.
- 3) When services are terminated by the agency, the client is to be notified at least three working days in advance of the date of termination with a stated reason for the termination. This information shall be maintained in the client record. The three-day notice requirement is not applicable in cases where the worker's safety is at risk. In such cases, the agency may notify the client of termination of services and the reason for termination. Documentation of the risk to the provider shall be maintained in the client record.
- d) Plan of Service. The agency shall establish a plan for each client, in consultation with the client and his or her appropriate family members or representative, which outlines the services to be provided to the client. The plan shall address and include, but not be limited to:
  - 1) The level, type and/or scope of services the client is receiving;
  - 2) Identification of any functional limitations of the client and the relevance of the limitation to the services to be provided;
  - 3) Information received from the client, in consultation with the client and his or her appropriate family members or representative on circumstances that may have an impact on activity or involvement by the client, including basic information on medications being taken, treatments received, activity, diet, and mental status.
- e) Physician signature is not required for the plan of service developed under this Section.
- f) The service plan shall be reviewed and revised as necessary, but not less than once annually.

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- g) Client Records. A client record shall be maintained for each client receiving in-home services. The record shall contain:
  - 1) Appropriate identifying information for the client, including the client's name, address, and telephone number(s);
  - 2) The name, telephone number, and address of the client's representative, if applicable;
  - 3) The name, telephone number and address of an individual or relative to be contacted in an emergency;
  - 4) The plan of services agreed to by the client and agency;
  - 5) A copy of the Client Home Care Services Agreement or Contract; and
  - 6) Documentation of each of the services provided at each visit.
- h) Each agency shall have a written policy on records procedures and shall retain records for a minimum of two years beyond the last date of service provided.
- i) Each agency shall have a written policy for protecting the confidentiality of patient records, which explains the use of records, removal of records, and release of information.

(Source: Added at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 245.212 Services – Home Nursing Placement Agency

- a) Agencies licensed as Home Nursing Placement Agencies are in the business of securing or attempting to secure work for hire for persons seeking work or workers for employers.
- b) A placement agency, by definition, cannot be the employer of the worker.
- c) A placement agency must identify itself as a placement agency in all advertisement and marketing materials.
- d) The placement agency shall require and document that:

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- 1) An individual seeking to be placed on the placement agency's registry shall submit to a criminal background check;
  - 2) Anyone seeking to be placed on the placement agency's registry shall undergo a competency evaluation prior to placement to ensure that the individual is competent to provide the services that the consumer is seeking; and
  - 3) Anyone seeking to retain an active listing on the placement agency's registry, even after an initial placement, shall participate in a minimum of eight hours of in-service training per year, provided and arranged for by the placement agency.
- e) The placement agency shall notify the worker both verbally and in writing of the implications of the worker's relationship to the client as the worker's employer. The document must be printed in no less than 12 point type and shall include at least the following elements in the body or through supporting documents or attachments, indicating the responsible parties for the following:
- 1) Employer of the licensed worker;
  - 2) Liability for the licensed worker;
  - 3) Payment of wages to the licensed worker;
  - 4) Payment of employment taxes, unemployment insurance, and worker's compensation for the licensed worker;
  - 5) Payment of Social Security taxes for the licensed worker;
  - 6) Day-to-day supervision of the licensed worker;
  - 7) Assignment of duties to the licensed worker;
  - 8) Responsibility for hiring, firing, and discipline of the licensed worker(s); and
  - 9) Provision of equipment or materials for the licensed worker's use in

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providing services to the consumer.

(Source: Added at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 245.214 Services – Home Services Placement Agency

- a) Agencies licensed as Home Services Placement Agencies are in the business of securing or attempting to secure work for hire for persons seeking work or workers for employers.
- b) A placement agency, by definition, cannot be the employer of the worker.
- c) A placement agency must identify itself as a placement agency in all advertisement and marketing materials.
- d) The placement agency shall require and document that:
  - 1) An individual seeking to be placed on the placement agency's registry shall submit to a criminal background check;
  - 2) Anyone seeking to be placed on the placement agency's registry shall undergo eight hours of training pursuant to Section 245.71(c) of this Part prior to his or her first placement;
  - 3) Anyone seeking to be placed on the placement agency's registry shall undergo a competency evaluation prior to placement to ensure that the individual is competent to provide the services that the consumer is seeking; and
  - 4) Anyone seeking to retain an active listing on the placement agency's registry, even after an initial placement, shall participate in a minimum of eight hours of in-service training per year, provided and arranged for by the placement agency.
- e) The placement agency shall notify the worker both verbally and in writing of the implications of his or her relationship to the client as his or her employer. The document must be printed in no less than 12 point type and shall include at least the following elements in the body or through supporting documents or attachments, indicating the responsible parties for the following:

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- 1) Employer of the in-home services worker;
- 2) Liability for the in-home services worker;
- 3) Payment of wages to the in-home services worker;
- 4) Payment of employment taxes, unemployment insurance, and worker's compensation for the in-home services worker;
- 5) Payment of Social Security taxes for the in-home services worker;
- 6) Day-to-day supervision of the in-home services worker;
- 7) Assignment of duties to the in-home services worker;
- 8) Responsibility for hiring, firing, and discipline of the in-home services worker; and
- 9) Provision of equipment or materials for the in-home services worker's use in providing services to the consumer.

(Source: Added at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 245.220 Client Service Contracts – Home Nursing and Home Services Agencies

A contract between a home nursing or home services agency and a client shall be in force, a copy of which is provided to the client and a copy of which is maintained in the client file at the agency. The document shall be printed in no less than 12 point type, and shall include at least the following elements in the body or through supporting documents or attachments:

- a) Client consent to receive services;
- b) The name, street address, and mailing address of the agency;
- c) The name and mailing address of the person or person designated as the agency manager and/or other individual beyond the in-home worker to contact in regard to questions, problems, needs, or concerns;

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- d) A statement describing the agency license status;
- e) The duration of the contract;
- f) The rate to be paid by the client and a detailed description of services to be provided as a part of the rate;
- g) A description of the process through which the contract may be modified, amended, or terminated;
- h) A description of the agency complaint resolution process;
- i) The billing and payment procedures and requirements;
- j) A statement regarding the agency's policy on notification of a relative or other individual in case of an emergency;
- k) A notice as developed and provided by the Department, indicating the responsible party for the following:
  - 1) Employer of the in-home/licensed worker;
  - 2) Liability for the in-home/licensed worker;
  - 3) Payment of wages to the in-home/licensed worker;
  - 4) Payment of employment taxes, unemployment insurance, and worker's compensation for the in-home/licensed worker;
  - 5) Payment of Social Security taxes for the in-home/licensed worker;
  - 6) Day-to-day supervision of the in-home/licensed worker;
  - 7) Assignment of duties to the in-home/licensed worker;
  - 8) Responsibility for hiring, firing, and discipline of the in-home/licensed worker; and
  - 9) Provision of equipment or materials for the in-home/licensed worker's use

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in providing services to the consumer.

(Source: Added at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 245.225 Client Service Contracts – Home Nursing Placement Agency and Home Services Placement agency

A contract between a home nursing placement agency or home services placement agency and a client shall be in force, a copy of which is provided to the client and a copy of which is maintained in the client file at the agency. The document shall be printed in no less than 12 point type, and shall include at least the following elements in the body or through supporting documents or attachments:

- a) Client consent to receive services;
- b) The name, street address, and mailing address of the agency;
- c) The name and mailing address of the person or person designated as the placement agency manager and/or other individual representing the placement agency whom the consumer may contact in the event that the contract terms are not performed;
- d) A statement describing the agency license status;
- e) The duration of the contract;
- f) The rate to be paid by the client and a detailed description of services to be provided as a part of the rate;
- g) A description of the process through which the contract may be modified, amended, or terminated;
- h) A description of the agency complaint resolution process;
- i) The billing and payment procedures and requirements;
- j) A statement regarding the agency's policy on notification of a relative or other individual in case of an emergency;

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- k) A statement on how the client can report abuse, neglect, or financial exploitation.
- l) A notice, as developed and provided by the Department, indicating the responsible party for the following:
  - 1) Employer of the in-home/licensed worker;
  - 2) Liability for the in-home/licensed worker;
  - 3) Payment of wages to the in-home/licensed worker;
  - 4) Payment of employment taxes, unemployment insurance, and worker's compensation for the in-home/licensed worker;
  - 5) Payment of Social Security taxes for the in-home/licensed worker;
  - 6) Day-to-day supervision of the in-home/licensed worker;
  - 7) Assignment of duties to the in-home/licensed worker;
  - 8) Responsibility for hiring, firing, and discipline of the in-home/licensed worker; and
  - 9) Provision of equipment or materials for the in-home/licensed worker's use in providing services to the consumer.

(Source: Added at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 245.240 Quality Improvement Program

- a) Each agency shall develop a quality improvement program for the agency. The quality improvement program shall include written policies and shall evaluate the agency's total program at least once a year. The evaluation shall, at a minimum, include a clinical or client record review, as appropriate. This evaluation shall assess the extent to which the agency's program is appropriate, adequate, effective, and efficient. Results of the evaluation shall be reported to and acted upon by those responsible for the operation of the agency and shall be maintained separately as administrative records.

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- b) Record Review. At least quarterly, the agency shall review a sample of both active and closed clinical or client records to assure that established policies are followed in providing services (direct services, as well as those under contractual arrangement). If applicable, this review shall include, but not be limited to:
- 1) Whether the care plan was directly related to the stated diagnosis and plan of care;
  - 2) Whether the frequency of visits was consistent with the plan of care; and
  - 3) Whether the services could have been provided in a shorter span of time or with fewer visits.
- c) None of the information, interviews, reports, statements, memoranda and recommendations produced during or resulting from the agency's quality improvement program may be admissible as evidence nor discoverable in any action of any kind in any court, as provided in the Medical Studies Act [735 ILCS 5/8-2101].

(Source: Added at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 245.250 Abuse, Neglect, and Financial Exploitation Prevention and Reporting

- a) When an agency has reasonable suspicion that a client has been the victim of abuse, neglect, or financial exploitation, the agency shall do the following:
- 1) In the case of an individual who is 60 years of age or older, an individual who has been found to be disabled or one who otherwise qualifies as an "eligible adult" under the Elder Abuse and Neglect Act, the agency shall notify the Elder Abuse and Neglect agency designated for the area in which the client resides. The agency shall document this report and maintain documentation on the premises for 12 months after the date of the report.
  - 2) In the case of an alleged victim under the age of 18, the agency shall notify the Department of Children and Family Services through the Child Abuse Hotline. The agency shall document this report and maintain documentation on the premises for 12 months after the date of the report.

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- 3) If the abuse or neglect is alleged to be a result of actions by an employee of the agency, or one placed by an agency providing in-home, home health, or home nursing services, the agency shall immediately remove the alleged perpetrator from direct contact with clients and investigate the allegation.
  
- b) In cases of allegations of abuse or neglect by an employee or an individual who has been placed by an agency, the agency shall conduct an investigation and develop a written report of the findings of the investigation within 14 days after the initial report. The agency shall send the written report of the investigation to the Department within 24 hours after completion of the investigation and shall maintain a copy of the report on the agency premises for 12 months after the date of the report.
  
- c) The written report of the investigation conducted pursuant to this Section shall contain at least the following:
  - 1) Dates, times, and description of alleged abuse, neglect, or financial exploitation;
  - 2) Description of injury or abuse to client;
  - 3) Any actions taken by the licensee;
  - 4) A list of individuals and agencies interviewed or notified by the licensee;
  - 5) A description of the action to be taken by the licensee to prevent the abuse, neglect or financial exploitation from occurring in the future; and
  - 6) Statements of any witnesses.
  
- d) Agency employees and volunteers shall report abuse, neglect, or financial exploitation of a client to the agency management and to the appropriate elder abuse and neglect agency or the Illinois Department on Aging.
  
- e) The agency shall immediately contact local law enforcement authorities (e.g., telephoning 911 where available) in the following situations:
  - 1) Physical abuse involving physical injury inflicted on a patient and/or

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client by a staff member;

- 2) Sexual abuse of a patient and/or client by a staff member;
- 3) When a crime has been committed in the patient and/or client's home by a person other than the patient or client; or
- 4) When a patient or client's death has occurred other than by disease processes; or
- 5) When an allegation of physical abuse, sexual abuse, or crime has been reported, or when death (other than by disease or natural causes) has occurred to a patient and/or client.

f) The agency shall develop and implement a policy concerning local law enforcement notification, including:

- 1) Ensuring the safety of patients and/or clients in situations requiring local law enforcement notification;
- 2) Contacting local law enforcement in situations involving physical abuse of a patient and/or client by another person;
- 3) Contacting police, fire, ambulance, and rescue services; and
- 4) Seeking advice concerning preservation of a potential crime scene.

g) Nothing in this Section relieves a mandates reporter from the responsibility of making a report to an agency designated to receive such reports under the Elder Abuse and Neglect Act or to the Department.

(Source: Added at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)