

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Home Health, Home Services, and Home Nursing Agency Code
- 2) Code Citation: 77 Ill. Adm. Code 245
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
245.20	Amendment
245.30	Amendment
245.40	Amendment
245.71	Amendment
245.75	Amendment
245.80	Amendment
245.90	Amendment
245.95	Amendment
245.200	Amendment
245.205	Amendment
245.210	Amendment
245.212	Amendment
245.214	Amendment
245.220	Amendment
245.225	Amendment
245.240	Amendment
245.250	Amendment
- 4) Statutory Authority: Home Health, Home Services, and Home Nursing Agency Licensing Act [210 ILCS 55]
- 5) A Complete Description of the Subjects and Issues Involved: The Home Health, Home Services, and Home Nursing Agency Code regulates home health agencies, home nursing agencies, home services agencies, and home nursing and home services placement agencies. Rules adopted in 2008 implemented then-new statutory requirements for home nursing agencies, home services agencies, and placement agencies for home nursing and home services workers. These amendments are meant to clarify the distinction between home nursing and home services agencies, and nursing and services placement agencies, and to delineate the respective obligations and responsibilities of each kind of agency.

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

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

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 any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This 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  
Administrative Rules Coordinator  
Department of Public Health  
Division of Legal Services  
535 W. Jefferson St., 5<sup>th</sup> Floor  
Springfield, Illinois 62761

(217)782-2043

[dph.rules@illinois.gov](mailto:dph.rules@illinois.gov)

- 13) Initial Regulatory Flexibility Analysis:
  - A) Types of small businesses, small municipalities and not for profit corporations affected: Home health, home nursing, and home services agencies

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- B) Reporting, bookkeeping or other procedures required for compliance: Reporting of quality improvement procedures and keeping of staff and client records.
- C) Types of professional skills necessary for compliance: Nursing
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not summarized on the last two regulatory agendas because the need for the rulemaking was unknown at the time the regulatory agendas were drafted.

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

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH

CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

SUBCHAPTER b: HOSPITALS AND AMBULATORY CARE FACILITIES

PART 245

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 (Repealed)
245.55	Vaccinations
245.60	Annual Financial Statement
245.70	Home Health Aide Training
245.71	Qualifications and Requirements for Home Services Workers
245.72	Health Care Worker Background Check
245.75	Infection Control

SUBPART C: LICENSURE PROCEDURES

Section	
245.80	Licensure Required
245.90	License Application
245.95	License Application Fee, <u>Single or Multiple Licenses</u>
245.100	Provisional License
245.110	Inspections and Investigations
245.115	Complaints
245.120	Violations

## ILLINOIS REGISTER

---

### DEPARTMENT OF PUBLIC HEALTH

#### NOTICE OF PROPOSED AMENDMENTS

- 245.130 Adverse Licensure Actions
- 245.140 Penalties and Fines
- 245.150 Hearings

#### SUBPART D: CLIENT/PATIENT SERVICES

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

**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;

# ILLINOIS REGISTER

---

## DEPARTMENT OF PUBLIC HEALTH

### NOTICE OF PROPOSED AMENDMENTS

amended at 32 Ill. Reg. 8949, effective June 5, 2008; amended at 34 Ill. Reg. 5711, effective April 5, 2010, amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

#### SUBPART A: GENERAL PROVISIONS

##### **Section 245.20 Definitions**

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

Activities of Daily Living – include, but are not limited to, eating, dressing, bathing, toileting, transferring, or personal hygiene.

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 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 an agency provides services within a portion of the total geographic area served by the parent agency. The branch office is part of the agency and is located sufficiently close to share administration, supervision and services in a manner that renders it unnecessary for the branch to be independently licensed.

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

## ILLINOIS REGISTER

---

### DEPARTMENT OF PUBLIC HEALTH

#### NOTICE OF PROPOSED AMENDMENTS

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.

Client Record – a written or electronic record that includes, but is not limited to, personal information, emergency notification information, plans of service agreed to between the client and the home services agency, a copy of the home services contract or agreement, and documentation of the services provided at each visit.

Clinical Note – a dated, written notation or electronic entry 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 and care provided for each patient and maintained by a home health or home nursing agency in accordance with 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 requested may include, but are not limited to, household work related to the care of the client, such as meal preparation, bed making, or laundry; shopping or errands; or other similar services.

*Department or IDPH – 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 – a person who works in the service of another person, or company, under an express or implied contract of hire, under which the employer has the right to control the details of work performance for wages, salary, fee or payment.  
~~an individual for whom an agency licensed under this Part pays withholding taxes~~

# ILLINOIS REGISTER

---

## DEPARTMENT OF PUBLIC HEALTH

### NOTICE OF PROPOSED AMENDMENTS

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 – a public agency or private organization that 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 – an employee of the home health agency who is 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 Section 600.300 of the Certified Local Health Department Code.

Home Health Aide – a person who provides nursing, medical, or 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 or her residence according to a plan of treatment for illness or infirmity prescribed by a physician*



# ILLINOIS REGISTER

---

## DEPARTMENT OF PUBLIC HEALTH

### NOTICE OF PROPOSED AMENDMENTS

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 and home health aide services to persons in their personal residences. A home nursing agency provides services that would be required to be performed by ~~require~~ an individual licensed under the Nurse Practice Act ~~to perform~~. Home health aide services are provided under the direction of a registered professional nurse or advanced practice nurse. A home nursing agency does not require 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 – services that would be required to be performed by an individual licensed under the Nurse Practice 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 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 or the United States Department of Veterans Affairs are not considered to be a home services agency under the ~~the~~ Act. (Section 2.08 of the Act)*

*Home Services or In-Home Services or In-Home Support 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*

# ILLINOIS REGISTER

---

## DEPARTMENT OF PUBLIC HEALTH

### NOTICE OF PROPOSED AMENDMENTS

*her own personal residence. "Home services" does not include services that would be required to be performed by an individual licensed under the Nurse Practice 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 or In-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.*

Licensed Practical Nurse – a person currently licensed as a licensed practical nurse under the Nurse Practice Act.

Medical Social Worker – a person who is a licensed social worker or a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act.

Occupational Therapist – a person who is licensed as an occupational therapist under the Illinois Occupational Therapy Practice Act and meets either or both of the following requirements:

Is ~~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 ~~is~~ eligible for the National Registration Examination of the American Occupational Therapy Association.

Occupational Therapy Assistant – a person who is licensed as an occupational therapy assistant under the Illinois Occupational Therapy Practice Act and meets the requirements for certification as an occupational therapy assistant established by the American Occupational Therapy Association.

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.

# ILLINOIS REGISTER

---

## DEPARTMENT OF PUBLIC HEALTH

### NOTICE OF PROPOSED AMENDMENTS

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, for home health agencies, 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 a 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 and who meets the qualifications for a physical therapist under the Federal Conditions of Participation for Home Health Agencies established by the Centers for Medicare and Medicaid Services (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 Centers for Medicare and Medicaid Services (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. 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. An ~~Such an~~ emergency may not extend more than six months in any case.

# ILLINOIS REGISTER

---

## DEPARTMENT OF PUBLIC HEALTH

### NOTICE OF PROPOSED AMENDMENTS

*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) For the purposes of this Part, there are two types of placement agencies: Home Nursing Placement Agencies (see Section 245.212) and Home Services Placement Agencies (see Section 245.214). A placement agency does not provide ongoing, continuous client support and management of services.*

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.

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.

## ILLINOIS REGISTER

---

### DEPARTMENT OF PUBLIC HEALTH

#### NOTICE OF PROPOSED AMENDMENTS

Registered Nurse – a person who is currently licensed as a registered nurse under the Nurse Practice Act.

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

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

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 that serves patients in a geographic

## ILLINOIS REGISTER

---

### DEPARTMENT OF PUBLIC HEALTH

#### NOTICE OF PROPOSED AMENDMENTS

area different from that of the parent agency. ~~Because of The subunit, by virtue of the distance between the subunit # and the agency, the subunit is considered to be is judged~~ incapable of sharing administration, supervision and services.

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 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### SUBPART B: ORGANIZATION REQUIREMENTS

##### **Section 245.30 Organization and Administration**

- a) Governing Body – All Agencies  
The agency shall have a governing body or a clearly defined body having legal authority and responsibility for the conduct of the agency. Where the governing body of a large organization is functionally remote from the operation of the 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, for home health agencies, to the professional advisory group. The bylaws or the equivalent shall specify the objectives of the agency;-
  - 2) Employ a qualified administrator for home health agencies;-
  - 3) Adopt and revise, as needed, policies and procedures for the operation and administration of the agency;-
  - 4) Meet to review the operation of the agency;-
  - 5) Keep minutes of all meetings; and-

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 6) Provide and maintain an office facility adequately equipped for efficient work, and confidentiality of patient and/or client records, and that provides a safe working environment in compliance with local ordinances and fire regulations.
- b) Administration – All Agencies
- 1) The agency shall have written administrative policies and procedures to ensure that the patient or client is provided ~~the provision of~~ safe and adequate care ~~of the patient or client~~.
  - 2) The agency shall show evidence of liability insurance in accordance with Section 245.90(a).
  - 3) The agency shall develop and implement written policies for complaint resolution between the agency and its patients/clients and/or patient/client advocates in regard to services being provided to the patient/client.
- c) Personnel Policies – All Agencies (Placement agencies shall meet the requirements of subsections (c)(1)(B), (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 or the placed home services worker/placed nurse who has contact with clients/patients, as specified by the governing body;
    - C) Orientation to the agency and appropriate continuing education;
    - D) Job descriptions for all positions used ~~utilized~~ by the agency;
    - E) Annual performance evaluation for all employees;

# ILLINOIS REGISTER

---

## DEPARTMENT OF PUBLIC HEALTH

### NOTICE OF PROPOSED AMENDMENTS

- F) Compliance with all applicable requirements of the Civil Rights Act of 1964;
  - G) ~~Confidentiality 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 ~~for 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.
- 2) Prior to employing or placing any individual in a position that requires a State professional license, the agency shall contact the Illinois Department of Financial and 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 agency shall, prior to hiring, check the status of employee or placement prospects who have direct patient/client care responsibilities with the Department's Health Care Worker Registry ~~prior to hiring~~ concerning findings of abuse, neglect or misappropriation of property.
  - 4) Personnel records for all employees ~~or~~ 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 that 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



ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

law for the functions performed, under the supervision of the agency.

- 6) Home services and home nursing agencies that use some contractual 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. Policies ~~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. Policies ~~These policies~~ and procedures shall include, but are not limited to:
    - A) Administration and supervision of the home health 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; and

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 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 governing body shall appoint a Home Health Administrator with the duties prescribed in Section 245.40.
  - 2) The home health agency shall designate an agency supervisor with one of the following sets of qualifications to supervise the provision of home health services:
    - A) 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;
    - B) A registered nurse who does not have a baccalaureate degree, but who has at least three years of nursing experience that meets the following requirements:
      - i) At least two years of the nursing experience must have been in: 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 of nursing experience must have been obtained within five years prior to current employment with the home health agency.
  - 3) The agency supervisor shall be a full-time registered nurse who is available at all times during operating hours of the agency and who

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

participates in all activities related to providing relevant to the provision of home health services. The agency supervisor shall designate a qualified staff member to act in his or her absence.

- 4) Any person employed as an agency supervisor prior to July 1, 1983, who does not meet the qualifications for agency supervisor that were in effect prior to October 1, 1983, may continue to serve in that capacity only at that agency.
  - 5) No one person may hold the positions of both home health agency administrator and agency supervisor.
  - 6) If the licensed home health agency also is licensed as a home nursing agency, the agency supervisor may supervise the provision of skilled nursing services in the home nursing agency only if there are equally qualified individuals available in each licensed component of the organization to act in his or her absence.
- f) Agency Supervisor Responsibilities – Home Health Agency
- 1) The entire clinical program shall be under the direction of the agency supervisor. The agency shall organize the personnel and clinical activities of the home health agency so in such a way that the organization will facilitate the provision of safe and adequate care will be provided to the patient.
  - 2) The skilled nursing service of a home health agency shall be under the direction of the agency supervisor.
  - 3) The agency supervisor shall be responsible for:
    - A) Supervising ~~The overall supervision of~~ all registered nurses, licensed practical nurses, home health aides, therapists, social workers and other clinical personnel employed by the agency or with whom the agency contracts for services;

# ILLINOIS REGISTER

---

## DEPARTMENT OF PUBLIC HEALTH

### NOTICE OF PROPOSED AMENDMENTS

- B) ~~Assuring that all staff providing patient care maintain the professional standards of community nursing practice are maintained by all staff providing patient care;~~
  - C) Maintaining and adhering to agency procedure and patient care policy manuals;
  - D) ~~Participating in establishing~~ Participation in the establishment of service policies and procedures;
  - E) ~~Participating in selecting and evaluating~~ Participation in the selection and evaluation of nursing personnel and of other staff providing patient care;
  - F) ~~Coordinating~~ Coordination of patient care services;
  - G) Keeping and maintaining records of case assignments and case management;
  - H) ~~Preparing and maintaining~~ Preparation and maintenance of the schedule of cases to be brought to the clinical record review committee; and
  - I) ~~Conducting~~ The conduct of selective program evaluations to improve deficient services and ~~developing and implementing 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 to oversee the placement of workers through the licensed home services agency.
  - 2) If the home nursing agency has appointed an agency manager who is not a registered nurse or an advanced practice nurse, the home nursing agency shall identify a registered nurse or advanced practice nurse ~~who is responsible~~ to supervise the provision of skilled nursing services as required by Section 2.11 of the Act. The supervisor shall be a full-time registered nurse who is available at all times during the operating hours of

# ILLINOIS REGISTER

---

## DEPARTMENT OF PUBLIC HEALTH

### NOTICE OF PROPOSED AMENDMENTS

the agency and who participates in all activities related to the provision of home nursing services.

(Source: Amended at 39 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 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 Act ~~law~~ and the rules of the Department and make copies available for their use;:-
  - 4) ~~Ensure that the completion, maintenance and submission of these such~~ reports and records as required by the Department are completed, maintained, and submitted;:-
  - 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) Manage ~~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;:-

## ILLINOIS REGISTER

---

### DEPARTMENT OF PUBLIC HEALTH

#### NOTICE OF PROPOSED AMENDMENTS

- 10) Provide orientation of new staff, regularly scheduled in-service education programs and opportunities for continuing education for the staff; and-
  - 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 registered nurse shall assign the home health aide is assigned to a particular patient by a registered nurse. The registered nurse or the appropriate therapist shall prepare written ~~Written~~ instructions for patient care ~~are prepared by a registered nurse or the appropriate therapist.~~
  - 2) Duties of the home health aide may include:
    - A) Performing ~~The performance of~~ simple procedures as an extension of therapeutic services;:-
    - B) Skilled personal care and personal ~~Personal~~ care, as defined in this Part;:-
    - C) Patient ambulation ~~Ambulation~~ and exercise; ~~of the patient.~~
    - D) Household services essential to health care at home;:-
    - E) Assisting ~~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; and-
    - G) Completing ~~Completion of~~ appropriate records.
  - 3) For home health agencies, 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

# ILLINOIS REGISTER

---

## DEPARTMENT OF PUBLIC HEALTH

### NOTICE OF PROPOSED AMENDMENTS

when the home health aide is absent. The purpose of the advisory visits is to assess relationships and determine whether goals are being met.

- 4) For home nursing agencies, the registered nurse shall make a supervisory visit to the patient's/client's residence at least every 60 days when the home health aide is present to observe and assist, or when the home health aide is absent. The purpose of the advisory visits is to assess relationships and determine whether the goals of the treatment plan 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 Nurse Practice 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, and bathing.
- 2) Home services or in-home services workers shall ~~will~~ provide services only in accordance with this Part ~~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) Observation of client functioning and reporting changes to his/her supervisor or employer and to a person designated by the client;
  - B) Assistance with household chores, including cooking and meal preparation, cleaning and laundry;

## ILLINOIS REGISTER

---

### DEPARTMENT OF PUBLIC HEALTH

#### NOTICE OF PROPOSED AMENDMENTS

- 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 acceptable tasks and also limitations when a more medical model of assistance would be needed to meet the 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, 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 assist with ambulation.



ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 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. Home services workers may assist individuals who are unable to be bathed in a tub or shower only when the following requirements are met:
- i) The home services worker shall have been trained in the particular methods required to perform a bed bath;
  - ii) The client or client's representative shall be able to participate in or direct the bathing process and provide ongoing feedback to the home services worker; and
  - iii) The agency shall have conducted a competency evaluation of the home services worker's ability to employ the methods required to perform a bed bath.
- 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 ~~applying application of~~ an Ace bandage that can be purchased only with a physician's prescription (the application of which involves wrapping a part of the client's body) or with ~~applying application of~~ a sequential compression device 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 encouraging the ~~encouragement of~~ normal bodily movement, as tolerated, on the part of the client, and to encouragement with a prescribed exercise program. A home services worker shall not perform ~~Passive Range of Motion may not be performed by a home services worker.~~

## ILLINOIS REGISTER

---

### DEPARTMENT OF PUBLIC HEALTH

#### NOTICE OF PROPOSED AMENDMENTS

- 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 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 workers 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 shall ~~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 positioning. Positioning may include simple alignment in a bed, wheelchair, or other furniture.

## ILLINOIS REGISTER

---

### DEPARTMENT OF PUBLIC HEALTH

#### NOTICE OF PROPOSED AMENDMENTS

- 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 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 urine 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, ~~wheelchairs~~ ~~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 shall 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:

## ILLINOIS REGISTER

---

### DEPARTMENT OF PUBLIC HEALTH

#### NOTICE OF PROPOSED AMENDMENTS

- 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 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, or, in the case of a placement worker, to the client or the client's advocate or designee, 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.

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 5) In addition to the exclusions prescribed in subsection (c)(4), home services workers shall not act in the following capacities:
  - A) Provide skilled personal care services as defined in Section 245.20;
  - B) Become or act as a power of attorney ~~Power of Attorney~~;
  - C) Be involved in any financial transactions of the client outside of contracted services. In these ~~such~~ cases, the home services worker shall 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 or other State laws.
- 6) Supervision of a home services worker 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 responses to questions at all times.
  - B) On-site supervision shall take place at a minimum of every 90 days or more often if the plan of service requires it. The supervisory visits may be made when the home services worker is present so that the supervisor may observe, or when the home services worker is absent so that the supervisor may assess relationships and determine whether the service plan is being met.
  - C) Supervision does not constitute time or an activity that can be billed as a service to the client/consumer.
- d) Licensed Practical Nurse
  - 1) The licensed practical nurse may perform selected acts in accordance with

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

the Nurse Practice Act, including administering ~~the administration of~~ treatments and medications in the care of the ill, injured, or infirm; ~~the maintenance of health~~ maintenance; and ~~prevention of illness~~ prevention; 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 record.
- e) Medical Social Worker. When medical social services are provided, ~~the medical social services shall be given by~~ a social worker or ~~by~~ a social work assistant under the supervision of a social worker shall provide the services in accordance with the plan of treatment. These services shall include the following:
- 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 family with personal and environmental difficulties that predispose toward illness or interfere with obtaining maximum benefits from medical care.
  - 5) Use ~~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.

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 7) Prepare clinical and progress notes for the clinical record.
- 8) Supervise ~~Supervision of~~ the social work assistant, which shall include the following:
  - A) A licensed social worker shall ~~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 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.
  - D) The supervisory visit shall include a complete on-site assessment, an on-site review of activities with appropriate revision of treatment plan, and an assessment of the use ~~utilization~~ of outside resources.
- f) Occupational Therapist and Occupational Therapy Assistant. When occupational therapy services are required, ~~occupational therapy services shall be provided by~~ an occupational therapist or ~~by~~ an occupational therapy assistant under the supervision of an occupational therapist shall provide the services in accordance with the plan of treatment and within the licensee's scope of practice as established by the Illinois Occupational Therapy Practice Act. 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.~~

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 1)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.
- 2)5) Prepare clinical and progress notes for the clinical record.
- 3)6) Supervise ~~Supervision of~~ the occupational therapy assistant, which shall include the following:
  - A) A licensed occupational therapist shall 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 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.
  - C) Supervision does not constitute treatment.
  - D) The supervisory visit shall include a complete on-site functional assessment, an on-site review of activities with appropriate revision of treatment plan, and an assessment of the use ~~utilization~~ of outside resources.
- g) Physical Therapist and Physical Therapist Assistant
  - 1) When physical therapy services are provided, ~~physical therapy services shall be given by~~ a physical therapist or ~~by~~ a physical therapist assistant under the supervision of a physical therapist shall provide the services in accordance with the plan of treatment and within the licensee's scope of practice as established by the Illinois Physical Therapy Act. These services shall include the following:
    - A) ~~Review and evaluate physician's or podiatrist's referral and~~



ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

~~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 the 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 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.
- ~~A)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.
- ~~B)H)~~ Instruct the patient and family in the total physical therapy program.

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

~~C)H~~ 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 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 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 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 therapist and within the licensee's scope of practice as established by the Illinois Physical Therapy Act;
- 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;~~

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- ~~C)E)~~ Observe patient's progress and response to treatment, and report to the physical therapist; and:-
- ~~D)F)~~ Confer with members of the health care team for planning, modifying and coordinating treatment programs.
- h) Registered Nurse (RN). Skilled nursing services shall be provided by a registered nurse in accordance with the plan of treatment. The registered nurse shall: ~~These services shall include the following:~~
- 1) Be responsible for the observation, assessment, nursing diagnosis, counsel, care and health teaching for ~~of~~ the ill, injured or infirm patients; ~~and health the maintenance of health and illness prevention for 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 60 days for a home health agency and every 90 days for a home nursing agency.
  - 4) In the case of an RN working as a part of a home health or home nursing agency, 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;:-
  - 6) Administer medications and treatments as prescribed by the patient's physician or podiatrist; and:-
  - 7) Act as the coordinator of the health care team in order to maintain the proper linkages within a continuum of care.
- i) Speech-Language Pathologist. When required, speech therapy services shall be provided by a speech-language pathologist in accordance with the plan of treatment. The speech-language pathologist shall: ~~These services shall include the~~

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

~~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 ~~care 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~~; and-~~
  - 6) Prepare clinical and progress notes for the clinical record.
- j) Audiologist. When audiology services are required, ~~audiology services shall be provided by an audiologist shall provide the services~~ in accordance with the plan of treatment. The Audiologist shall:~~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 assisting the patient in improving communication skills~~; and-~~
  - 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, a written agreement between the agency and

## ILLINOIS REGISTER

---

### DEPARTMENT OF PUBLIC HEALTH

#### NOTICE OF PROPOSED AMENDMENTS

each educational institution shall 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 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 the agency and faculty to jointly evaluate the students' performance and the training program.

(Source: Amended at 39 Ill. Reg.\_\_\_\_\_, effective \_\_\_\_\_)

#### **Section 245.71 Qualifications and Requirements for Home Services Workers**

- a) Each agency shall ensure and shall maintain documentation in the home services worker's 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 this ~~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 without a waiver;
  - 2) Has a copy of his or her ~~the~~ Social Security card; and
  - 3) Has a visa or proof of citizenship in compliance with federal requirements for employment.

# ILLINOIS REGISTER

---

## DEPARTMENT OF PUBLIC HEALTH

### NOTICE OF PROPOSED AMENDMENTS

- b) Each placement agency shall require proof that the home service worker has completed a minimum of eight hours of training prior to his or her first assignment. The training shall include all of the items noted in subsection (d) of this Section.
- c) Each home services agency shall provide or arrange for a minimum of eight hours of training for each home services worker. Four hours of training shall be provided prior to the home services worker's first assignment, and the remaining four hours shall be provided within the worker's first 30 days after employment. The training shall include the components of subsections (d)(1)-(12) ~~of this Section~~. The home services agency may accept proof that the worker has successfully completed a training program at or through another licensed home services agency within the prior year (previous 365 days) in lieu of providing or arranging for training, including a home health aide who is approved on the Health Care Worker Registry. The agency shall give the home health aide a competency evaluation prior to his or her first assignment. The home services agency shall not give a ~~no~~ worker an assignment until the worker has first passed a competency evaluation given by the agency of the topics included in the first four hours of training. The competency evaluation shall ensure that the home services worker is competent to provide the services required in his or her first assignment. The worker ~~workers~~ shall be similarly tested following the remaining four hours of training.
- d) The placement agency may accept proof that the worker has successfully completed a training program at or through another licensed home services agency within the prior year (previous 365 days). The home services placement agency shall not give a ~~no~~ worker an assignment until the worker has first passed a competency evaluation given by the agency. The competency evaluation shall ensure ~~insure~~ that the home services worker is competent to provide the services required in his or her assignment. The competency evaluation or proof of prior training at a licensed home services agency within the prior year shall address each of the following subjects:
  - 1) The employee's job responsibilities and limitations;
  - 2) Communication skills in areas such as with persons who are hard of hearing, have dementia, or have other special needs;

## ILLINOIS REGISTER

---

### DEPARTMENT OF PUBLIC HEALTH

#### NOTICE OF PROPOSED AMENDMENTS

- 3) Observing, ~~Observation~~, reporting and documenting ~~documentation of~~ client status and the service furnished, including changes in functional ability and mental status demonstrated by the client;
  - 4) Performing ~~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; positioning; toileting; and medication reminding;
  - 5) Assisting ~~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) Maintaining ~~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's ~~client~~ personal, financial and health information;
  - 11) Behaviors that would constitute abuse or neglect and the legal prohibitions against these ~~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.
- e) All home services workers shall complete a minimum of eight hours of training during each year of employment, to maintain placement availability, based on either a calendar year or an anniversary date basis, whichever is selected by the agency. The initial eight hours of training required in subsection (c) ~~of this Section~~ shall satisfy the annual training requirement for the home services

## ILLINOIS REGISTER

---

### DEPARTMENT OF PUBLIC HEALTH

#### NOTICE OF PROPOSED AMENDMENTS

worker's first year of employment. The annual training can include self-study courses with demonstration of learned concepts that are applicable to the employee's responsibilities. Training shall include:

- 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.
- f) All training shall be documented with the date of the training; the length of time spent on each training topic starting and ending times; instructors and their qualifications; short description of content; and staff member's signature.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### **Section 245.75 Infection Control**

- a) Each agency shall develop and implement policies and procedures for investigating, controlling and preventing infections. Placement agencies shall provide the Centers for Disease Control and Prevention publication "Guidelines for Hand Hygiene in Health-Care Settings."
- 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 incorporated in Section 245.25.

(Source: Amended at 39 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*



ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

*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)*
- 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 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 prior to maintaining, operating or conducting an 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.
  - 4) A licensee shall notify the Department in writing at least 45 days in advance of any intention to:
    - A) Change ownership; or
    - B) Sell its agency.
  - 5) A change of ownership happens when one of the following transactions occurs:

## ILLINOIS REGISTER

---

### DEPARTMENT OF PUBLIC HEALTH

#### NOTICE OF PROPOSED AMENDMENTS

- A) In an unincorporated sole proprietorship, when the property is transferred to another party;
  - B) A material change in a partnership that is caused by the removal, addition, or substitution of a partner;
  - C) In a corporation, when the provider corporation merges into another corporation, or the consolidation of two or more corporations, one of which is the licensee, resulting in the creation of a new corporation; or
  - D) The transfer of any corporation stock that results in a change of the person or persons who control the agency, or
  - E) The transfer of any stock in excess of 75 percent of the outstanding stock.
- 6) Pursuant to subsection (d)(5)(C), the transfer of corporate stock or the merger of another corporation into the licensee corporation does not constitute a change of ownership if the licensee corporation remains in existence. In these transactions, the name of the corporation, its officers, its independent subsidiaries, and any other relevant information that the Department may require shall be made available to the Department upon request.
- 7) If a sale of an agency causes a change in the person or persons who control or operate the agency, the agency is considered a new agency, and the licensee shall apply for a new license and shall comply with this Part and any other applicable State and federal rules.
- 8) Whenever ownership of an agency is sold from the person or organization named on the license to another person or organization, the new owner shall apply for a new license. The new owner shall file an application for license on the renewal/change of ownership application at least 45 days prior to the sale.
- 9) The Department shall issue a new license to a new owner who meets the requirements for licensure under this Part. The transactions described in

## ILLINOIS REGISTER

---

### DEPARTMENT OF PUBLIC HEALTH

#### NOTICE OF PROPOSED AMENDMENTS

this Section shall not be complete until the Department issues a new license to the new person, legal entity, or partnership. The former licensee shall return its license to the Department by certified mail.

- 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.
- f) Out-of-State Agencies. A license is required for any 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 these ~~such~~ cases, the following conditions shall be met:
  - 1) The licensee shall be registered to do business in Illinois under the Business Corporation Act of 1938 ~~[805 ILCS 5]~~ or otherwise authorized to do business in Illinois.
  - 2) The licensee shall have an office in Illinois.
  - 3) All professional care supervisory and staff personnel caring for patients or clients residing in Illinois shall be subject to any licensure, certification or registration that is required to perform the respective service in Illinois, and shall be so licensed, certified or registered.
- g) The licensee shall notify the Department in writing not less than 30 days prior to closing the agency.
- h) *Any 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.

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 39 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, home nursing placement, or home service placement agency shall file a licensure application with the Department. 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 or home services placement agency shall also file an application for licensure with the Department.
  - 2) The application shall be accompanied by a Certificate of Insurance documenting minimum liability coverage of \$1 million per occurrence and \$3 million in the aggregate.
  - 3) Each initial application for licensure shall be on forms provided by the Department, and shall contain, at a minimum, the following information:
    - A) *Name, address, and location of the agency;*
    - B) *Ownership, 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;*

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

and

- H) For home health agencies, 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, or not 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)(3) ~~of this Section~~.

c) Renewal Application – Home Health Agencies

Applications for renewal of home health agency licenses shall additionally contain the following information:

- 1) *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 patients being served at the end of the year; and
- 2) *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) Renewal Application – Home Services, Home Nursing, Home Services Placement and Home Nursing Placement Agencies

Applications for renewal shall additionally contain the following information:

- 1) Client load data for home services and home nursing for the preceding year, including the number of clients admitted, the number of clients discharged, the number of patients over 65 years of age who received services, and the number of clients being served at the end of the year, with the exception of those clients being served through the Community Care Program of the Illinois Department on Aging, the Department of Human Services Office of Rehabilitation Services, or the United States

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Department of Veterans Affairs; and

- 2) Client data for Home Services Placement and Home Nursing Placement for the preceding year including the number of placements, the number of placements for clients 65 years old or older, and the number of clients in process on last day of most recent fiscal period.
- e) A home health agency shall be in operation and be able to demonstrate client activity prior to the third renewal of the agency's license to verify compliance for a renewal of the agency's license. A home services, home nursing, home services placement and home nursing placement agency shall be in operation and be able to demonstrate client activity prior to the second renewal of the agency's license to verify compliance for a renewal of the agency's license.
- ~~f)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)*
- ~~g)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 non-refundable licensure fee under the multiple category shall not exceed \$1500 annually.*
- ~~h)f)~~ *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 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 8 and 9 of the Act and Section 245.130 of this Part. (Section 4(c) of the Act)*

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 245.95 License Application Fee, Single or Multiple Licenses**

## ILLINOIS REGISTER

---

### DEPARTMENT OF PUBLIC HEALTH

#### NOTICE OF PROPOSED AMENDMENTS

- a) *Applicants for multiple licenses under the licensure ~~his~~ system set forth in this Part shall pay the higher of the licensure fees applicable.* (Section 4(d) of the Act)
- b) A home nursing agency or a home services ~~service~~ agency shall pay a licensure fee not to exceed \$1500 annually. 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 annually. The fee is not refundable.
- 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.
- e) An applicant for dual licenses as a home services agency and a home services placement agency, or a home nursing agency and a home nursing placement agency, shall operate each licensed agency as a separate entity to meet the requirements of the Act and this Part as an employer of workers and as a placement agency that places individuals.

(Source: Amended at 39 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 the ~~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.

## ILLINOIS REGISTER

---

### DEPARTMENT OF PUBLIC HEALTH

#### NOTICE OF PROPOSED AMENDMENTS

- c) Services provided under contractual arrangements shall be through a written agreement that includes, but is not limited to, the following:
  - 1) A detailed description of the services ~~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;
  - 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 promulgated in writing within 14 days after acceptance and signed by the physician within 30 days after 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.



## ILLINOIS REGISTER

---

### DEPARTMENT OF PUBLIC HEALTH

#### NOTICE OF PROPOSED AMENDMENTS

- 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 any continuing care is 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, consider termination ~~deem it~~ appropriate or arrangements are made for continuing care.
- e) Plan of Treatment
- Skilled nursing and other home health services shall be in accordance with a plan based on the patient's diagnosis and an 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:
- 1) Diagnoses;
  - 2) Functional limitations and rehabilitation potential;
  - 3) Expected outcomes for the patient;
  - 4) The patient's physician's or podiatrist's regimen of:
    - A) Medications;
    - B) Treatments;

## ILLINOIS REGISTER

---

### DEPARTMENT OF PUBLIC HEALTH

#### NOTICE OF PROPOSED AMENDMENTS

- C) Activity;
  - D) Diet;
  - E) Specific procedures considered ~~deemed~~ essential for the health and safety of the patient;
  - F) Mental status;
  - G) Frequency of visits;
  - H) Equipment required;
  - I) Instructions for timely discharge or referral; and
  - J) Assessed need for influenza and pneumococcal vaccination;
- 5) 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 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

## ILLINOIS REGISTER

---

### DEPARTMENT OF PUBLIC HEALTH

#### NOTICE OF PROPOSED AMENDMENTS

upon the plan of treatment and an assessment of the patient's needs, resources, family and environment. A registered nurse shall make the ~~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. ~~If in those circumstances in which~~ 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 the service approach with an estimated time 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;

## ILLINOIS REGISTER

---

### DEPARTMENT OF PUBLIC HEALTH

#### NOTICE OF PROPOSED AMENDMENTS

- 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 nurse that 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 that 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 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 for discharge, and plans for post-discharge needs of

# ILLINOIS REGISTER

---

## DEPARTMENT OF PUBLIC HEALTH

### NOTICE OF PROPOSED AMENDMENTS

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; and:-

- 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 electronic or faxed copies of records from licensed professionals, rather than original records, provided that the electronic copies are stored on a disc or on a flash drive in addition to a computer hard drive ~~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) Agencies ~~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 Local Records Commission is first obtained.* (Section 7 of the Local Records Act)
- 4) Each agency shall have a written policy and procedure for protecting the ~~protection of~~ confidentiality of patient records that explains the use of records, removal of records and release of information.
- 5) Agencies that maintain client records by computer rather than hard copy may use electronic signatures. The agency shall develop policies and procedures governing these entries and the appropriate authentication and dating of electronic records. Authentication may include signatures, written initials, or computer-secure entry by a unique identifier or primary

# ILLINOIS REGISTER

---

## DEPARTMENT OF PUBLIC HEALTH

### NOTICE OF PROPOSED AMENDMENTS

author who has received and approved the entry. The agency shall enact safeguards to prevent unauthorized access to the records and shall draft a process for reconstruction of the records if the system fails or breaks down.

- i) Drugs and Biologicals. The agency shall have written policies governing the supervision and administration of drugs and biologicals that 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 shall be ~~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 that 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 other potentially hazardous drug is administered, the registered nurse administering the drugs shall have an emergency plan and any drugs and devices that may be necessary if in the event of a drug reaction occurs.

# ILLINOIS REGISTER

---

## DEPARTMENT OF PUBLIC HEALTH

### NOTICE OF PROPOSED AMENDMENTS

- j) Evaluation. The home health agency shall have written policies for evaluation 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, whether the:
    - A) Patient care plan was directly related to the stated diagnosis and plan of treatment;
    - B) Frequency of visits was consistent with the plan of treatment; and
    - C) Services could have been provided in a shorter span of time.

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 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: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 245.205 Services – Home Nursing Agencies**

- a) Each home nursing agency shall provide skilled nursing services and may provide home health aide services under the supervision of the registered nurse. Home nursing services may be provided directly by agency staff or through a contractual purchase of services. All services shall be provided:
  - 1) In ~~in~~ accordance with the client's physician or podiatrist, or under a plan of treatment established by the physician, podiatrist or prescribing health care professional; and
  - 2) Under ~~under~~ the supervision of agency staff, by a health care professional. If the agency manager is the designated nursing supervisor, then the agency shall also have another nurse on staff to provide the direct skilled nursing care.
- 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 with a third party.
- c) If the agency provides services under contractual arrangements with a third party, it shall have a written agreement that includes, but is not limited to, the following:
  - 1) A detailed description of the services to be provided;
  - 2) Provisions for adherence to all applicable agency policies and personnel requirements, including requirements for initial health evaluations and employee health policies, and criminal background check if applicable;
  - 3) Designation of full responsibility for agency control over contracted services;



ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 4) Procedures for submitting clinical and progress notes;
- 5) Charges for contracted services;
- 6) A statement of responsibility of liability and insurance coverage (employment, workers compensation) and taxes, including employment and social security taxes;
- 7) The period of time the written agreement is in effect;
- 8) The date and signatures of appropriate authorities; and
- 9) Provisions for termination of services.

d)e) Acceptance and Discharge of Patients

Patient acceptance and discharge policies shall include, but not be limited to, the following:

- 1) Persons shall be accepted for services with a plan of treatment established by the patient's health care professional. This plan shall be promulgated in writing within 30 days after acceptance and shall be signed by the prescribing health care professional within 45 days after acceptance.
- 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 sexual orientation. Patients shall be ~~are~~ 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.
- 4) When services are to be terminated by the agency, the patient shall ~~is to~~ be notified seven 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 any continuing care is indicated, a plan shall be developed or a referral made ~~for any continuing care~~.

# ILLINOIS REGISTER

---

## DEPARTMENT OF PUBLIC HEALTH

### NOTICE OF PROPOSED AMENDMENTS

- 5) Services shall not be terminated until ~~such time as~~ the registered nurse has provided a minimum of seven days' ~~days~~ notice to the patient's health care professional. The seven-day notice requirement is not applicable in cases in which the worker's safety is at risk. In these ~~such~~ cases, the agency shall notify the client of the timing of the termination of services and the reason for the termination. Documentation of the risk to the worker shall be maintained in the client record.

e)d) Plan of Treatment

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 health care professional; other pertinent members of the agency staff; the client; and client's advocate. The plan shall include:

- 1) Diagnoses;
- 2) Client limitations and prognosis;
- 3) Expected outcomes for the client;
- 4) The prescribing health care 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;
- 5) The types and frequency of services to be provided; and
- 6) Assessment of need for influenza and pneumococcal vaccination.

f)e) Consultation with the client's health care professional on any modifications in the plan of treatment deemed necessary shall be documented, and the prescribing health care professional's signature shall be obtained within 45 days after any modification 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.

# ILLINOIS REGISTER

---

## DEPARTMENT OF PUBLIC HEALTH

### NOTICE OF PROPOSED AMENDMENTS

- 2) An updated plan of treatment shall be given to the client's health care professional for review, for any necessary revisions, and for signature every 90 days, or more often as indicated.

#### ~~g)~~ Clinical Records

- 1) ~~The agency shall maintain~~ Each client shall have a clinical record for each client ~~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 accordance ~~accord~~ with the health care professional's order;
  - C) A list of medications that the client is taking, 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 that 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 contacts ~~contracts~~ with the client's health care professional by client and staff;
  - H) Documentation ~~Indication~~ of supervision of services by the supervising nurse, a registered nurse, or other members of the home nursing supervisory/management team;

## ILLINOIS REGISTER

---

### DEPARTMENT OF PUBLIC HEALTH

#### NOTICE OF PROPOSED AMENDMENTS

- I) Written and signed confirmation of the client's health care professional's interim verbal orders;
  - J) A discharge summary giving a brief review of service, client status, reason 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 services. 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 or health care professional;
  - 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 electronic or faxed copies of records from licensed professionals, rather than original records, provided that the electronic copies are stored on a disc or on a flash drive in addition to a computer hard drive ~~faxed copies shall 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 ~~thesesuch~~ 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 if the in the event of a system fails or breaks down ~~failure or breakdown~~.

## ILLINOIS REGISTER

---

### DEPARTMENT OF PUBLIC HEALTH

#### NOTICE OF PROPOSED AMENDMENTS

- 4) Agencies ~~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 Local Records Commission is first obtained.* (Section 7 of the Local Records Act)
- 5) Each agency shall have a written policy and procedure for protecting the ~~protection of~~ confidentiality of client records that explains the use of records, removal of records and release of information.

h)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 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 health care 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, written, and signed by the patient's health care ~~healthcare~~ professional within 45 days.
- 4) When any experimental drug, sera, allergenic desensitizing agent, penicillin or other potentially hazardous drug is administered, the registered nurse administering the drugs shall have an emergency plan and any drugs and devices that may be necessary ~~if in the event of~~ a drug reaction occurs.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### **Section 245.210 Services – Home Services Agencies**

# ILLINOIS REGISTER

---

## DEPARTMENT OF PUBLIC HEALTH

### NOTICE OF PROPOSED AMENDMENTS

- a) Agencies licensed as home services agencies shall provide non-medical services, which may be provided directly by agency staff or through a contractual purchase of services, that are intended to assist clients with activities of daily living. Services may include, but are not 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 when changes occur.
- b) If the agency provides services under contractual arrangements with a third party, it shall have a written agreement that includes, but is not limited to, the following:
  - 1) A detailed description of the services to be provided;
  - 2) Provisions for adherence to all applicable agency policies and personnel requirements, including requirements for initial health evaluations and employee health policies, and criminal background check if applicable;
  - 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) A statement of responsibility of liability and insurance coverage (employment, workers compensation) and taxes, including employment and Social Security taxes;
  - 7) The period of time the written agreement is in effect;
  - 8) Date and signatures of appropriate authorities; and
  - 9) Provisions for termination of services.

# ILLINOIS REGISTER

---

## DEPARTMENT OF PUBLIC HEALTH

### NOTICE OF PROPOSED AMENDMENTS

c)b) When services are provided to clients by a home services agency, there shall be a written contractual agreement between the client and the agency that 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 parties responsible for payment of employment taxes, Social Security taxes, and workers' compensation;
- 3) Information on the 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 the contractual arrangement and conditions for termination of the contract; and
- 6) Contact information for the client to use in case of concerns, complaints, or questions on care to be provided.

d)e) 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 for assistance with household or personal support ~~and/or~~ companionship services. A home services 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.

# ILLINOIS REGISTER

---

## DEPARTMENT OF PUBLIC HEALTH

### NOTICE OF PROPOSED AMENDMENTS

- 3) When services are terminated by the agency, the client is to be notified at least seven 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 seven-day notice requirement is not applicable in cases in which the worker's safety is at risk. In these ~~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.
- 4) The acceptance of the client for non-medical services shall be based on the following documented information in consultation with the client and his or her appropriate family members or representative:
  - A) Any functional limitations of the client and the relevance of the limitation to the services requested; and
  - B) Any circumstances that may have an impact on activity or involvement by the client, such as basic information on medications being taken, treatments received, client's physical activity, diet, and mental status in relation to the services requested.
- e)d) Service Plan. The agency shall establish a plan for each client, in consultation with the client and his or her appropriate family members or representative, that outlines the services to be provided to the client. The plan shall address and include, but not be limited to:
  - 1) The level, type, frequency, 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, which shall be communicated to the home services worker, on circumstances that may have an impact on the client's activity or involvement ~~by the client~~, such as basic information on medications being taken, treatments received, client's physician, activity, diet and mental status.



ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- ~~f)e)~~ Physician signature is not required for the plan of service developed under this Section.
- ~~g)f)~~ The service plan shall be reviewed and revised as necessary, but not less than once annually.
- ~~h)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 numbers;
  - 2) The name, telephone numbers and address of the client's representative, if applicable;
  - 3) The name, telephone numbers 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 by the home services worker of each of the services provided at each visit.
- ~~i)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.
- ~~j)i)~~ Each agency shall have a written policy for protecting the confidentiality of patient records that explains the use of records, removal of records, and release of information.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 245.212 Services – Home Nursing Placement Agency**

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- a) “Placement agency” 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. (Section 2.12 of the Act). 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. A placement agency shall not be the employer of the nurse for whom it procures, offers, refers, provides, or attempts to provide work. The nurse shall perform services ordered by the client’s physician without any direction, control, or supervision by the home nursing placement agency with respect to performing the skilled nursing services. Following the placement of the worker with the client, the placement agency shall not have any control of the worker’s assignments or duties, or assist the client in the payment of the worker. A placement agency shall not provide ongoing support and administrative management of the client’s needs.
- 1) The maximum duration of a contract shall be no longer than 12 months.
- 2) The home nursing placement agency may charge only a one-time fee for placement. The home nursing placement agency may allow the client to pay the fee throughout the duration of the contract. An ongoing, continuous client service fee beyond the duration of the contract is prohibited.
- b) ~~A placement agency, by definition, cannot be the employer of the worker.~~
- b) Actions taken by the placement agency as part of its quality review process as required by Section 245.240(d) shall not be considered an ongoing relationship.
- c) Actions taken by a client that fall under Section 245.250(a)(4) shall not be considered an ongoing relationship.
- d)e) A placement agency shall ~~must~~ identify itself as a placement agency in all advertisement and marketing materials, including, but not limited to, a statement that the placed nurse is the client’s employee and not the placement agency’s employee.
- e)d) The placement agency shall require and document that anyone wishing to remain eligible for placement by the agency shall provide, to the agency, a copy of his or her current Illinois Professional RN or LPN license. The placement agency shall

## ILLINOIS REGISTER

---

### DEPARTMENT OF PUBLIC HEALTH

#### NOTICE OF PROPOSED AMENDMENTS

contact the Illinois Department of Financial and Professional Regulation to verify that the individual's license is active.;

- 1) ~~An individual wishing to remain eligible for placement by the agency shall submit to a criminal background check;~~
  - 2) ~~Anyone wishing to remain eligible for placement by the agency 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 wishing to remain eligible for placement by the agency, 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.~~
- f)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 shall ~~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;

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 8) Responsibility for hiring, firing and disciplining ~~discipline of~~ the licensed worker; and
- 9) Provision of equipment or materials for the licensed worker's use in providing services to the consumer.
- g) A placement agency shall provide the placed nurse with contact information for the Department on Aging and the Department of Children and Family Services to report abuse, neglect or financial exploitation, and a list of situations for which the client or placed worker shall contact local law enforcement.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 245.214 Services – Home Services Placement Agency**

- a) “Placement agency” 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. (Section 2.12 of the Act) 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. A placement agency shall not be the employer of a home services worker for whom it procures, offers, refers, provides, or attempts to provide work. The home services worker shall perform services pursuant to Section 245.71 without any direction, control, or supervision exercised by the home services placement agency with respect to performing the home services work. Following the placement of the worker with the client, the placement agency shall not have any control of the worker's assignments or duties, or assist the client in the payment of the worker. A placement agency shall not provide ongoing support and administrative management of the client's needs.
  - 1) The maximum duration of a contract shall be no longer than 12 months.
  - 2) The home services placement agency may charge only a one-time fee for placement. The home services placement agency may allow the client to pay the fee throughout the duration of the contract. An ongoing, continuous client service fee beyond the duration of the contract is prohibited.

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- b) ~~A placement agency, by definition, cannot be the employer of the worker.~~
- b) Actions taken by the placement agency as part of its quality review process as required by Section 245.240(d) shall not be considered an ongoing relationship.
- c) Actions taken by a client that fall under Section 245.250(a)(4) shall not be considered an ongoing relationship.
- d)e) A placement agency shall identify itself as a placement agency in all advertisement and marketing materials including, but not limited to, a statement that the placed home services worker is the client's employee and not the placement agency's employee.
- e)d) The placement agency shall require and document that:
  - 1) An individual wishing to remain eligible for placement by the agency has submitted to a health care worker background check and is active on the Department's Health Care Worker Registry;
  - 2) Anyone wishing to remain eligible for placement by the agency shall provide proof of eight hours of training pursuant to Section 245.71(d) of this Part prior to his or her first placement; and
  - 3) Anyone wishing to remain eligible for placement by the agency, even after an initial placement, shall provide proof of a minimum of eight hours of in-service training per year.
- f)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 shall 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 in-home services worker;
  - 2) Liability for the in-home services worker;
  - 3) Payment of wages to the in-home services worker;

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 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 disciplining ~~discipline~~ of the in-home services worker;
  - 9) Provision of equipment or materials for the in-home services worker's use in providing services to the consumer; and
  - 10) That all worker ~~All~~ placement fees shall be payable to the placement agency, and procedures for refunds of such fees and a complaint resolution process for disputes concerning placement fees shall comply with, ~~as currently provided under~~ the Private Employment Agency Act.
- g) A placement agency shall provide the placed worker with contact information for the Department on Aging and the Department of Children and Family Services to report abuse, neglect or financial exploitation, and a list of situations for which the client and or placed worker shall contact local law enforcement.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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

A contract shall be in force between a home nursing or home services agency and a client ~~shall be in force.~~ A copy of the contract shall be ~~which is~~ provided to the client and a copy shall be ~~of which is~~ maintained in the client file at the agency. If the agency has both a home services license and a home nursing license, the agency shall maintain two separate client contracts, one for skilled medical care and one for non-medical services. The contracts document ~~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;

## ILLINOIS REGISTER

---

### DEPARTMENT OF PUBLIC HEALTH

#### NOTICE OF PROPOSED AMENDMENTS

- b) The name, street address, mailing address and telephone number of the agency;
- c) The name, mailing address and telephone number of the persons designated as the agency manager and/or other individual beyond the in-home worker to contact in regard to questions, problems, needs or concerns;
- d) A statement describing the agency license status;
- e) Indication and assurance of compliance by the agency with the requirements of the ~~licensing~~ Act, including compliance with the Health Care Worker Background Check Act;
- f) The duration of the contract;
- g) The rate to be paid by the client and a detailed description of services to be provided as a part of the rate;
- h) A description of the process through which the contract may be modified, amended or terminated;
- i) A description of the agency complaint resolution process;
- j) The billing and payment procedures and requirements;
- k) A statement regarding the agency's policy on notification of a relative or other individual in case of an emergency;
- l) A notice as developed and provided by the agency, 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;

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 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 disciplining ~~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: Amended at 39 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 referral services of a placed worker;
- b) The name, street address, mailing address and telephone number of the agency;
- c) The name, mailing address and telephone number of the persons designated as the placement agency manager ~~and/or~~ other individual representing the placement agency whom the consumer may contact if in the event that the contract terms are not performed;
- d) A statement describing the agency license status;
- e) The duration of the contract, not to exceed 12 months;



# ILLINOIS REGISTER

---

## DEPARTMENT OF PUBLIC HEALTH

### NOTICE OF PROPOSED AMENDMENTS

- f) The placement rate and fees 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~~;
- h)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~~;
- i)k) To whom ~~A statement on how~~ the client can report abuse, neglect or financial exploitation, and the number of the Department's complaint hotline;
- j)l) A notice, as developed and provided by the agency, indicating that the client is the employer of the home services worker or nurse, and that the client is responsible party for the following:
  - 1) ~~Employer of the in-home/licensed worker~~;
  - 1)2) Liability for the in-home/licensed worker or nurse;
  - 2)3) Paying ~~Payment of~~ wages to the in-home/licensed worker or nurse;
  - 3)4) Paying ~~Payment of~~ employment taxes, unemployment insurance, and worker's compensation for the in-home/licensed worker or nurse;
  - 4)5) Paying ~~Payment of~~ Social Security taxes for the in-home/licensed worker or nurse;
  - 5)6) Day-to-day supervision of the in-home/licensed worker or nurse;
  - 6)7) Assigning ~~Assignment of~~ duties to the in-home/licensed worker or nurse;

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- ~~7)~~ 8) ~~Responsibility for hiring, firing and disciplining discipline of the in-home/licensed worker or nurse; and~~
- ~~8)~~ 9) ~~Providing Provision of equipment or materials for the in-home/licensed worker's or nurse's use in providing services to the consumer; and~~
- ~~10)~~ ~~All placement fees, procedures for refunds of those fees, and a complaint resolution process for disputes concerning placement fees, as currently provided under the Private Employment Agency Act.~~

(Source: Amended at 39 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 for home health agencies, home services agencies, and home nursing agencies 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.
- 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.

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 4) Whether the service plan was followed by the home services worker or nursing staff.
- 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 Article VIII, Part 21 of the Code of Civil Procedure (Medical Studies).
- d) Placement agencies shall assess the extent to which the agency's program is appropriate, adequate, effective, and efficient, including but not limited to, the placement of workers who have prior training and who are on the Health Care Worker Registry. Results of the evaluation shall be reported to those responsible for the operation of the agency and shall be maintained in a separate file as administrative records.

(Source: Amended at 39 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 provider agency designated by the Department on Aging or an Area Agency on Aging 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.
  - 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

## ILLINOIS REGISTER

---

### DEPARTMENT OF PUBLIC HEALTH

#### NOTICE OF PROPOSED AMENDMENTS

health, or home nursing services, the agency shall immediately remove the alleged perpetrator from direct contact with clients and investigate the allegation.

- 4) If the client contacts the home services placement agency regarding an allegation of abuse or neglect by the placed worker, the agency shall comply with the home services agency reporting requirements in Section 6.3 of the Act. If the client contacts the home nursing placement agency regarding an allegation of abuse or neglect by the placed worker, the agency shall comply with the home nursing agency reporting requirements in Section 6.7 of the Act.
- 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) A placement agency shall provide the client, at the time of the placement of the worker, and the placed worker with contact information for the Department on Aging and the Department of Children and Family Services to report abuse, neglect and or financial exploitation and a list of situations for which the client and or placed worker shall contact local law enforcement.
- d)e) 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;

## ILLINOIS REGISTER

---

### DEPARTMENT OF PUBLIC HEALTH

#### NOTICE OF PROPOSED AMENDMENTS

- 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.
- ~~e)~~d) Agency employees, ~~persons placed by a placement agency~~ and volunteers shall report abuse, neglect or financial exploitation of a client to the agency management and to the appropriate elder abuse provider agency or the Illinois Department on Aging.
- ~~f)~~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 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;
  - 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.
- ~~g)~~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

ILLINOIS REGISTER

---

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

4) Seeking advice concerning preservation of a potential crime scene.

~~h)~~ Nothing in this Section relieves a mandated ~~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: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)