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2025 HOME HEALTH AGENCY REGULATIONS SUMMARY OF CHANGES GUIDE

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INTRODUCTION AND BACKGROUND

Home Health Agency (HHA) regulations serve as a consumer protection and are intended to reduce the predictable risk of harm to patients and clients enrolled in an HHA. Effective July 1, 2017, K.S.A. 65-5102 requires HHAs in Kansas to be licensed. There are three main types of services that can be provided by an HHA: Home Health Services (HHS), Home and Community Based Services (HCBS), and Non-Medical Supportive Care Services (SCS). There are two license types available to licensees and potential applicants: a Skilled Services license, which includes the ability to provide all three types of HHA services, and a Non-Medical Supportive Care Services license providing only chore and/or companionship services.

To ensure compliance with HCBS Waiver Program Requirements, driven by Centers for Medicare & Medicaid Services (CMS), HHA regulations are being amended with the proposal to create three distinct licenses for the three types of HHA services. Throughout these regulations, Home Health Services was changed to Skilled Home Health Services (SHHS) to provide clarification.

In total, changes are proposed to 11 regulations across license types. Below is a summary of those changes. When reviewing the summary, please keep in mind the following are drafted revisions. There are several reviews that must be completed, including a formal public comment period. The HHA program is committed to keeping you updated and will notify you when the Notice of Public Hearing is published in the **Kansas Register**.

K.A.R. 28-50-100, Definitions

- "Admission note" was shortened and the requirements for contents was moved to each HHA's respective regulation.
- "Applicant with a temporary operating permit" was added to ensure regulations applied to those who were operating without a full license.
- "Branch office" was added for clarification.
- "Care plan" was added for clarification.
- "Client record" was shortened, applies it to only SCS, and the requirements for contents was moved to K.A.R. 28-51-110.
- "Clinical manager" was changed to differentiate the position from "Director of nursing" and specifies what qualifications the position must have.
- "Clinical record" was shortened, applies it to only HHS and HCBS, and requirements for contents was moved to K.A.R. 28-51-110.
- "Confirmation of services" was added for clarification.
- "Direct access" was added for clarification.
- "Direct supervision" was removed and replaced with "On-site supervision".
- "Director of nursing" was added to differentiate from "Clinical manager".
- "Discharge summary report" added/replaced language for clarify.
- "Health assessment" was added to for clarification.
- "Inspection" added that the department may have an authorized designee, ensuring any contractors hired by the department to carry out inspection duties are included where this definition is used in the regulations.
- "Licensee" added temporary license and temporary operating permit.
    - This would mean a person who has a license, temporary license, or temporary operating permit apply where regulation states licensee requirements.

- "Managed care organization" and "MCO" was added for clarification.
- "Manager" had on-site supervision of supportive care workers added as a requirement for the position in addition to supervision.
- "Medication set up" was added to replace "Set up" for clarification.
- "Office hours" included branch offices in addition to parent offices.
- "On-call" included being readily available instead of available and removed the requirement that it's for staff only.
    - Patients and staff would be able to contact someone on-call with a quick response time.
- "On-site supervision" was added for clarification and includes physically supervising services and activities.
- "Parent office" removed requirements within definitions. The requirements were moved to K.A.R. 28-51-501(k).
- "Personal care" removed the link to attendant care services defined in K.S.A. 65-6201 and instead lists examples of personal care services.
    - This removes ancillary services such as homemaker- and companion-type services, which was moved to the definition of supportive care services, and is largely basic services, as defined in the referenced statute.
- "Plan of care" was changed to add clarification on when one is completed and what its purpose is and requirements were removed from definition and included throughout the regulations for each license type.
- "Progress note" was changed to add clarification on what its purpose is and requirements were removed from definition and included throughout the regulations for each license type.
- "Restraint" was added for clarification and includes examples such as the use of medications, mechanical devices, physical force, and seclusion.
- "Service area" was changed to add the requirement for the geographic region to be within the state of Kansas.
- "Set up" was removed and replaced with "Medication set up" for clarification.
- "Significant health event" was removed and clarification was added to K.A.R. 28-51-103(h).
- "Service plan" was added for clarification.
- "Skilled care services" was changed to "Skilled home health services," adopts the definition specified in K.S.A. 65-5101(d), and clarifies which skills are included in the definition.
- "Supportive care services" was added for clarification.
- "Telehealth" was removed as the term was not used in these regulations.
- "Undergraduate degree" was added for clarification.

K.A.R. 28-50-101, Licensing Procedure

- Created a term for that encompasses an application, fee, copy of all procedures and policies for the entire set of regulations, resume for administrators, proof of education for the administrators, and verification of administrator's licenses as a "complete application packet".
    - Incomplete application packets will not start any timeline of approval for KDHE until a complete application packet is submitted and all required documents are included.
- Created separate fee structures for SHHS, HCBS, and SCS, including annual renewal fees.
- Required that each person applying for a license shall be in good standing with the Kansas Secretary of State.
- Clarified that each HHA can only provide the SHHS, HCBS, or SCS services as listed on their license.
- Notification changes:
    - Moved change of administrators' requirements to the notifications section and lists the required documents that must be provided to KDHE upon any change in administrators, including an amended application.
    - Require an amended application to KDHE upon a change in address or name.
    - Require change of ownership notifications to KDHE at least 30 days prior to the effective date of the sale, transfer, or change in corporate status and a copy of the bill of sale must be provided to KDHE.
    - Phone number changes shall be provided to KDHE in writing within five days following the change
- Required that an administrator must be on-site during inspections.
- Removed after-hour staffing requirements and added on-call requirements to K.A.R. 28-51-103(f).
- Change the notification of closure from 'within 30 days before closure' to 'at least 30 days before closure'.
- Increased the scope of exception requests from only service area restrictions to any regulation requirement.
    - Proposed language follows other licensing exception language within the Agency.
- Added office location requirements to specify that each parent office and branch office have to have a physical office able to conduct day-to-day business with a local street and telephone number, be staffed during advertised business hours, conspicuously post office hours, does not have a P.O. Box for the office location,

must be a fixed location, and needs to have a designated space available for confidential review of documentation, interviews, and conversations.
    - Requires branch offices to be under the supervision and administrative control of a parent office, have policies and procedures readily available to staff, and receive an on-site supervisory visit by the agency administrator.

K.A.R. 28-51-103 Organization; Employee Health; Orientation, Training, and Competency; Reporting Abuse, Neglect, and Exploitation; Criminal History and Background Check; and General Administration

- Added the requirement to hire a Director of Nursing and an Alternate Director of Nursing depending on administrator and alternate administrators' qualifications.
    - Referenced the new chart added in (b)(3)(E).
- Clarified that any governing body member must disclose past HHA ownership or management.
- Added requirements that the administrator is required to conduct an on-site visit of each branch office at least every six months, if applicable, and they must reside within the service area or within a neighboring county of a different state and within 60 minutes from the parent office.
- Re-defined administrator requirements and qualifications for SHHS:
    - Current: at least 21 years of age, bachelor's degree, and one of the following: one year of experience as an administrator, be a physician or RN, or be some other qualified health professional with two years of experience in direct health care delivery and a year of supervisory experience in health care.
    - Proposed applies to SHHS and HCBS: at least 21 years of age, undergraduate degree, being a qualified health professional, and has a current license in Kansas with at least one year of supervisory or administrative experience in home health care.
- Re-defined administrator requirements and qualifications for SCS:
    - Current: at least 21 years of age, one year of experience as an employee of a HHA or related health care service, and one of the following: bachelor's degree, associate's degree, or a certificate from a home health administrator course approved by KDHE.
    - Proposed: at least 21 years of age, one year of supervisory experience in the provision of personal care services as an employee of a home health agency, and one of the following: undergraduate degree in health care services, an undergraduate degree in any field and two years of experience delivering personal care services, or a certification as a home health aide, one year of experience delivering personal care services, and a certificate from a home health administrator course approved by KDHE.
- Added qualifications and requirements for the Director of Nursing and Alternate Director of Nursing.
- Added on-call requirements for care provided after-hours, including development of a policy.
- Included contracted employees as staff who must have a personnel record on file.
- Personnel record changes:
    - Included details of performance evaluation requirements, which now include an on-site supervisory visit, a review of staff's documentation and services delivered, and feedback from patients who received services by the staff member.
    - Removed the requirement to keep a separate health record within each personnel's file and instead include the contents of the health record individually.
    - Replaced the self-reported health history with a health status form.
    - Removed the requirement for a subsequent health assessment every two years and the copy of eligibility determination request regarding adult and juvenile convictions and adjudications.
    - Added all orientation, training, and competencies completed to be included in each personnel record.
- Health requirements of employees were added for clarification and include general health requirements, clarification on when the health status form is completed, tuberculosis testing requirements, and health assessment requirements.
- Removed provisional employment requirement as it's already in K.S.A. 65-5117(e).
- Added personnel record requirements to personnel under hourly or per visit contracts.
- Moved abuse, neglect, or exploitation to new (k).
- Added orientation, training, and competency requirements including an annual requirement for orientation, training, and competencies which shall be completed before providing unsupervised care to patients or clients. Topics were consolidated here from K.A.R. 28-51-104, 28-51-117 and 28-51-118.
    - For standardization purposes, SCS now includes training on the client's bill of rights and appropriate use of equipment, as needed, and all three types of HHAs now include recognizing signs and symptoms and the policies and procedures for abuse, neglect, and exploitation as well as including tuberculosis in the infection control policies and procedure requirements.
    - Included the demonstration of basic competencies.

- Added investigation of abuse, neglect, and exploitation requirements, including investigation requirements, the development of policies, plans, and procedures for handling investigations, and investigation reporting requirements.
- Added coordination of care, which ensures all staff, patient or client, caregiver, legal guardian, etc. are involved in coordination of service delivery and activities outlined in their plan of care.
- Added list of information required to be given to each patient or client, including a weekly visit schedule, medication schedule and instructions, any care or treatment to be delivered, any other instructions related to care or treatments, and name and contact information of the administrator.
- Added transfer and discharge requirements, including documenting due diligence to ensure continuity of care, communication when a transfer is not available, and only assisting with transferring if their needs can no longer be met by the HHA, services can no longer be paid for, the goals and outcomes have been achieved, services are refused or transfer/discharge is desired, if there is disruptive, abusing, or uncooperative behavior that prevent services from being delivered, upon death of the patient or client, or if the HHA closes.
- Added criminal history and background check requirements to ensure compliance with K.S.A. 65-5117 and Kansas Department for Aging and Disability Services regulations.
- Added criminal history and background check requirements which include being conducted every two years or after allegations of abuse, neglect, or exploitation.
- Added admission policy requirements, which include references to K.S.A. 65-5101 and K.A.R. 28-51-100 and contains any limitations related to service types, duration, or frequency and is updated annually.
- Added care capacity policy requirements, which includes the HHA's capacity to provide care, including things like staffing, case load, skills and competencies, etc.
- Added that no HHA can use any form of restraints.

K.A.R. 28-51-104 Skilled Home Health Services

- Changed title from "Home health services, HCBS, and supportive care services" to "Skilled home health services".
    - Made this regulation specific to SHHS only and removed HCBS and SCS to their respective new regulations.
    - Removed items that are now listed in the "general regulation (K.A.R. 28-51-103)" applicable to all types of HHAs, including communication/coordination of care, supervision, admission criteria, orientation and training, etc.
- Added that policies and procedures shall be made for initial and renewal applications, discharge, on-call support, and medication administration.
- Clarified that the services provided are limited to what's listed in K.S.A. 65-5101 and this regulation.
- Specified list of information required to be given to each patient, including orders, initial assessment, admission note, and a plan of care.
    - Requirements and specifications for the initial assessment, admission note, and plan of care is specified and included within each of those sections, respectively.
- Specified discharge information, including the creation of a discharge summary and compliance with requests for additional clinical information from the receiving facility or health care practitioner.
- Specified on-call support requiring a registered nurse to be available at all times and on-call after business hours.
- Specified that medication administration can only be completed by a licensed professional acting within their license.
- Added standard and scope of practice information, ensuring staff work within their scope and standard of practice as determined by their licensing agency and the HHA's internal policies.

K.A.R. 28-51-105 Nursing Services

- Specified that a registered nurse shall supervise nursing services.
- Added that supervision of licensed practical nurses by registered nurses shall be conducted at least every 60 days, include a review of their documentation and services delivered, include feedback from the patients, and include direction, feedback, and guidance, as appropriate.
- Removed reporting upon a change of status, concerns, or an update in the plan of care, general plan of care information, application information, as they were included either general regulations or HHA regulations where skilled services are provided to patients.
- Removed that applicants who apply for only SHS cannot provide nursing services, as it was moved to K.A.R. 28-51-117 (c)(1).

K.A.R. 28-51-106 Therapy Services

- Added that supervision of therapy assistants by either a physical therapist or occupational therapist shall be conducted at least every 60 days, include a review of their documentation and services delivered, include feedback from the patients, and include direction, feedback, and guidance, as appropriate.
- Removed who may conduct initial assessments and patient evaluations because it was moved to each regulation specific to each type of applicable HHA (usually within the requirements of each plan of care).

K.A.R. 28-51-108 Home Health Aide Services

- Expanded the list of who can supervise home health aides, including other appropriate skilled professional responsible for the care of the patient when nursing services aren't being provided.
- Added that a visit to each patient's home is completed every two weeks to supervise services provided by home health aides if nursing services, therapy services, or both, are being provided to the patient.
    - If only personal care is provided, the supervisory visit was extended from every 60 days to every 90 days.
- Added that supervision of home health aides shall include a review of their documentation and services delivered, include feedback from the patients, and include direction, feedback, and guidance, as appropriate.

K.A.R. 28-51-110 Clinical Records and Client Records

- Separated requirements specific to each type of HHA license.
- For SHHS, included contents of clinical record and includes progress notes requirements, which are completed at least every 60 days.
- For SCS, removed orders and progress notes as they aren't needed for supportive care services.
- Added separate section for HCBS requirements, which include the MCO's service plan, plan of care, name of licensed practitioner, physician orders, admission notes, clinical notes, confirmation of services provided, progress notes, which are completed at least every 60 days, progress notes, date of each supervisory visit, and discharge summary report.
- Removed the requirement that a provision shall be made for retention of records if the licensee ceases operation.

K.A.R. 28-51-111 Patients' and Clients' Bill of Rights

- Moved the right to be advised in advance of the services that will be provided and the frequency of visits proposed to be provided that applies it to both patients and clients instead of just patients.
- Added notice of rights, which specifies that each patient, client, and legal guardian be notified of, provided, and sign that they received the bill of rights.
- Added that all provisions within the bill of rights are promoted and protected for each patient and client to exercise by the HHA.

K.A.R. 28-51-117 Supportive Care Services

- Added that policies and procedures shall be made for admission, plan of care, discharge, supervision of supportive care workers, written assignments, scope of practice and assigned duties, on-call support, and standard and scope of practice.
- Removed items that are now listed in the "general regulation (K.A.R. 28-51-103)" applicable to all types of HHAs, including communication/coordination of care, supervision, admission criteria, orientation and training, etc.
- Specified that each HHA shall provide SCS to a client only when the HHA reasonably expects that the client's needs can be met adequately in the client's residence.
- Specified service requirements to limit services provided to only supportive care services by definition
- Specified list of information required to be given to each client, including initial assessment, admission note, and a plan of care.
    - Requirements and specifications for the initial assessment, admission note, and plan of care is specified and included within each of those sections, respectively.
- Specified discharge information, including the creation of a discharge summary and compliance with requests for additional clinical information from the receiving facility or health care practitioner.
- Clarified or changed information for individual services, including:
    - Ambulation – if the client has to be cued use an assistive device, they shall be in an HHA licensed to provide SHHS.
    - Bathing – tub or shower bathing assistance may only be provided if the client can balance and bear weight.
    - Dressing – assistance for over the counter or prescription anti-embolic/pressure stockings cannot be applied by a supportive care worker.

    - Exercise – supportive care workers cannot assist with performing passive range of motion.
    - Hair care – supportive care workers cannot assist with medicated or prescription shampoos.
    - Nail care – may only be performed by SHHS, not SCS.
    - Positioning – limited to no more than alignment in bed, wheelchair, or other furniture.
    - Toileting – supportive care workers cannot change an ostomy bag.
    - Transfers – supportive care workers cannot assist with using lift devices.
    - Masks and oxygen flow – supportive care workers cannot set or adjust oxygen flow.
- Specified on-call support requiring a manager to be available at all times and on-call after business hours.
- Added standard and scope of practice information, ensuring staff work within their scope and standard of practice as determined by the regulations.

K.A.R. 28-51-118 HCBS

- Removed items that are now listed in the "general regulation (K.A.R. 28-51-103)" applicable to all types of HHAs, including communication/coordination of care, supervision, admission criteria, orientation and training, etc.
- Added that policies and procedures shall be made for plan of care, admissions, discharge, training, supervision, on-call support, medication administration, and scope of practice.
- Clarified that the services provided are limited to what's listed in K.S.A. 65-5101 and this regulation.
- Specified that each HHA shall provide HCBS to a patient only when the HHA reasonably expects that the patient's medical, rehabilitation, and social needs can be met adequately in the patient's residence.
- Specified list of information required to be given to each patient, including initial assessment, admission note, and a plan of care.
    - Requirements and specifications for the initial assessment, admission note, and plan of care is specified and included within each of those sections, respectively.
- Specified discharge information, including the creation of a discharge summary and compliance with requests for additional clinical information from the receiving facility or health care practitioner.
- Added that training requirements shall be specific to the waiver program requirements.
- Added written assignment requirements, which include procedures used for meeting patient needs and requirement to document each service provided during each visit.
- Specified on-call support requiring a registered nurse to be available at all times and on-call after business hours.
- Specified that medication administration may only be completed by a licensed professional if allowed by their license and by attendant care workers if delegated by registered nurses.
- Added standard and scope of practice information, ensuring staff work within their scope and standard of practice as determined by their licensing agency, waiver program, and the requirements listed in this regulation, including:
    - Services that may be provided by attendant care workers, which include basic services and ancillary services.
    - Services that may be provided by certified nurse assistants home health aides, which may include health maintenance activities if they've received training, supervision, and delegation to perform them.