CHAPTER 419

HOME HEALTH SERVICES

§2141. Purpose and intent

The Legislature finds that licensure of all agencies and organizations providing home health services is desirable and it is the purpose of this chapter to protect the public and assure that home health services are provided under standards of safety, efficiency and quality. [PL 1983, c. 570 (NEW).]

It is the intent of this chapter to set forth the statutory authorization for home health care licensure, including the standards, start-up procedures and means by which licensure is established. [PL 1983, c. 570 (NEW).]

SECTION HISTORY

PL 1983, c. 570 (NEW).

§2142. Definitions

As used in this chapter, the following terms have the following meanings. [PL 1983, c. 570 (NEW).]

1. Commissioner. "Commissioner" means the Commissioner of Health and Human Services.
[PL 1983, c. 570 (NEW); PL 2003, c. 689, Pt. B, §7 (REV).]

1-A. Certified nurse practitioner. "Certified nurse practitioner" has the same meaning as in section 2421-A, subsection 13.
[PL 2023, c. 679, Pt. C, §1 (AMD).]

2. Department. "Department" means the Department of Health and Human Services.
[PL 1983, c. 570 (NEW); PL 2003, c. 689, Pt. B, §6 (REV).]

3. Home health care provider. "Home health care provider" means any business entity or subdivision thereof, whether public or private, proprietary or not for profit, that is engaged in providing acute, restorative, rehabilitative, maintenance, preventive or health promotion services through professional nursing or another therapeutic service, such as physical therapy, home health aides, nurse assistants, medical social work, nutritionist services or personal care services, either directly or through contractual agreement, in a client's place of residence. This term does not apply to any sole practitioner providing private duty nursing services or other restorative, rehabilitative, maintenance, preventive or health promotion services in a client's place of residence or to municipal entities providing health promotion services in a client's place of residence. This term does not apply to a federally qualified health center or a rural health clinic as defined in 42 United States Code, Section 1395x, subsection (aa) (1993) that is delivering case management services or health education in a client's place of residence. Beginning October 1, 1991, "home health care provider" includes any business entity or subdivision thereof, whether public or private, proprietary or nonprofit, that is engaged in providing speech pathology services.
[PL 1993, c. 331, §1 (AMD).]

4. Registered nurse educator. "Registered nurse educator" means a registered nurse licensed under Title 32, chapter 31 who provides postprescription training to a patient or caregiver in a patient's place of residence when the registered nurse educator does not provide health care services, does not deliver the prescription drug, does not touch the patient, does not administer the prescription drug to the patient and does not seek payment from the patient, caregiver or any health care payor.
[PL 2013, c. 336, §1 (NEW).]

SECTION HISTORY

PL 1983, c. 570 (NEW). PL 1985, c. 189, §1 (AMD). PL 1989, c. 119, §1 (AMD). PL 1993, c. 331, §1 (AMD). PL 2003, c. 689, §§B6,7 (REV). PL 2013, c. 336, §1 (AMD). PL 2023, c. 267, §1 (AMD). PL 2023, c. 679, Pt. C, §1 (AMD).

§2143. License required

Effective July 1, 1984, no home health care provider may provide home health services without having, subject to this chapter and to the rules promulgated by the department under this chapter, a written license therefor from the department. [PL 1983, c. 570 (NEW).]

SECTION HISTORY

PL 1983, c. 570 (NEW).

§2144. Licensure procedures

1. Types of licenses. The department shall issue the following types of licenses, as follows.

A. A provisional license shall be issued by the department to an applicant who:

(1) Has not previously operated as a home health care provider or is licensed but has not operated during the term of that license;

(2) Complies with all applicable laws and rules, except those which can only be complied with once clients are served by the applicant; and

(3) Demonstrates the ability to comply with all applicable laws and rules by the end of the provisional license term. [PL 1983, c. 570 (NEW).]

B. The department shall issue a full license to an applicant who complies with all applicable laws and rules. [PL 1983, c. 570 (NEW).]

C. A conditional license may be issued by the department, when the provider fails to comply with applicable laws and rules, and in the judgment of the commissioner, the best interest of the public would be so served by issuing a conditional license. The conditional license shall specify when and what corrections shall be made during the term of the conditional license. [PL 1983, c. 570 (NEW).]

D. The commissioner may grant a full, provisional or conditional license under this chapter to those entities otherwise regulated by the State Government or the Federal Government, if the commissioner determines that those regulations meet the purpose and intent of this chapter. [RR 2021, c. 2, Pt. B, §119 (COR).]

[RR 2021, c. 2, Pt. B, §119 (COR).]

2. Licenses not assignable or transferable. No license may be assignable or transferable. A license shall be immediately void if ownership or control of the provider changes.
[PL 1983, c. 570 (NEW).]

3. Term of license; compliance visits. Licenses shall be issued for the following terms.

A. The provisional license shall be issued for a minimum period of 3 months or a longer period, as deemed appropriate by the department, not to exceed 12 consecutive months. [PL 1983, c. 570 (NEW).]

B. The term of a full license may not exceed 24 months. [PL 2003, c. 548, §1 (RPR).]

C. The conditional license shall be issued for a specific period, not to exceed one year, or the remaining period of the previous full license, whichever the department determines appropriate based on the laws and rules violated. [PL 1983, c. 570 (NEW).]

D. Regardless of the term of the license, the department shall monitor for continued compliance with applicable laws and rules on at least a biennial basis. The department shall adopt rules, which are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A, regarding terms of licenses. [PL 2003, c. 548, §2 (AMD).]

[PL 2003, c. 548, §§1, 2 (AMD).]

4. Failure to comply with applicable laws and rules. The following shall apply for failure to comply with applicable laws and rules.

A. When an applicant fails to comply with applicable laws and rules, the department may refuse to issue or renew the license. [PL 1983, c. 570 (NEW).]

B. If, at expiration of a full or provisional license, or during the term of a full license, the facility fails to comply with applicable laws and rules and, in the judgment of the commissioner, the best interest of the public will be so served, the department may issue a conditional license or change a full license to a conditional license. [PL 1983, c. 570 (NEW).]

C. Any license issued under this chapter may be suspended or revoked for violation of applicable laws and rules committing, permitting, aiding or abetting any illegal practices in the operation of the provider of conduct or practices detrimental to the welfare of persons to whom home health care services are provided. When the department believes that a license must be suspended or revoked, it shall file a complaint with the District Court in accordance with Title 4, section 184 or the Maine Administrative Procedure Act, Title 5, chapter 375. [PL 1999, c. 547, Pt. B, §40 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

D. The department may petition the Superior Court to appoint a receiver to operate a home health agency in accordance with chapter 1666-A. [PL 1995, c. 620, §1 (NEW).]

[PL 1999, c. 547, Pt. B, §40 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

5. Appeals. Any person aggrieved by the department's decision to take any of the following actions may request an administrative hearing as provided by the Maine Administrative Procedure Act, Title 5, chapter 375:

A. Issue a conditional license; [PL 1983, c. 570 (NEW).]

B. Amend or modify a license; [PL 1983, c. 570 (NEW).]

C. Refuse to issue or renew a full license; or [PL 1983, c. 570 (NEW).]

D. Refuse to issue a provisional license. [PL 1983, c. 570 (NEW).]

[PL 1983, c. 570 (NEW).]

SECTION HISTORY

PL 1983, c. 570 (NEW). PL 1995, c. 620, §1 (AMD). PL 1999, c. 547, §B40 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2003, c. 548, §§1,2 (AMD). RR 2021, c. 2, Pt. B, §119 (COR).

§2145. Standards

Standards shall be developed as follows. [PL 1983, c. 570 (NEW).]

1. Standards for licensing of all home health care entities. The commissioner shall develop, no later than one year of the date of enactment of this chapter, standards for the licensing of all home health care entities.

[PL 1983, c. 570 (NEW).]

2. Variation in standards. Licensing standards may vary according to the varying means and methods of providing home health care services, but shall be consistent with the purpose and intent of this chapter.

[PL 1983, c. 570 (NEW).]

3. Areas to be addressed. Home health care licensing standards shall address the following areas:

A. General requirements; [PL 1983, c. 570 (NEW).]

B. Qualifications for professional personnel; [PL 1983, c. 570 (NEW).]

C. Qualifications for paraprofessional personnel; [PL 1983, c. 570 (NEW).]

D. Treatment and services and their coordination; [PL 1983, c. 570 (NEW).]

E. Supervision of professional and nonprofessional personnel; [PL 1983, c. 570 (NEW).]

F. Organizational structure, including lines of authority; [PL 1983, c. 570 (NEW).]

G. Clinic records; [PL 1983, c. 570 (NEW).]

H. Business records; and [PL 1983, c. 570 (NEW).]

I. Other aspects of home health care services that may be necessary to protect the public. [PL 1983, c. 570 (NEW).]

[PL 1983, c. 570 (NEW).]

4. Review of standards. All standards shall be subject to review by the joint standing committee of the Legislature having jurisdiction over health and institutional services.

[PL 1983, c. 570 (NEW).]

SECTION HISTORY

PL 1983, c. 570 (NEW).

§2145-A. Home health care services ordered by physician licensed in another state

1. Requirements; home health care provider. A home health care provider that is licensed pursuant to this chapter and certified by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services as a home health agency may provide home health care services for up to 90 days to a patient who resides in this State based on an order from a physician who is licensed in another state as long as the following requirements are met:

A. The physician holds a license in good standing conferred by the appropriate medical board in the physician's jurisdiction of practice. The home health care provider must verify that the physician's license is in good standing, and the verification must be maintained on file for review by the department; [PL 2025, c. 567, §1 (NEW).]

B. The physician issued the order pursuant to an in-person physical examination of the patient performed in the state where the physician is licensed. Home health care services ordered by the physician are limited to the medical purpose and clinical scope from the results of the in-person physical examination; and [PL 2025, c. 567, §1 (NEW).]

C. The physician and home health care provider comply with standards established in rules adopted by the department pursuant to subsection 5 and comply with regulations adopted by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services under conditions of participation for home health agencies pursuant to 42 Code of Federal Regulations, Part 484. [PL 2025, c. 567, §1 (NEW).]

[PL 2025, c. 567, §1 (NEW).]

2. Exemption from medical license in this State. A physician who is licensed in another state and who issues an order for home health care services in accordance with this section is exempt from the requirement of licensure by the Board of Licensure in Medicine in Title 32, chapter 48 or the Board of Osteopathic Licensure in Title 32, chapter 36 solely for the purpose of ordering home health care services for a patient, as long as the following requirements are met:

A. The order for the provision of home health care services is for up to 90 days; [PL 2025, c. 567, §1 (NEW).]

B. The physician provides telehealth services only to the patient for which the order has been issued; [PL 2025, c. 567, §1 (NEW).]

C. The physician orders home health care services from a home health care provider that is certified by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services as a home health agency; and [PL 2025, c. 567, §1 (NEW).]

D. The physician only orders home health care services while the patient is receiving home health care services. [PL 2025, c. 567, §1 (NEW).]

[PL 2025, c. 567, §1 (NEW).]

3. Violation. If, during the department's home health care services licensing process or during the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services survey and certification process, a physician is found to be acting in violation of this section, the department shall, in consultation with the Board of Licensure in Medicine under Title 32, chapter 48 or the Board of Osteopathic Licensure under Title 32, chapter 36, determine if the physician may no longer be exempt from licensure in this State under subsection 2.
[PL 2025, c. 567, §1 (NEW).]

4. Limitation on physician providing telehealth services or in-person medical care. A physician acting under subsection 2 is not authorized to provide telehealth services or in-person medical care to any patient in this State except as expressly outlined in this section.
[PL 2025, c. 567, §1 (NEW).]

5. Rulemaking. The department may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2025, c. 567, §1 (NEW).]

SECTION HISTORY

PL 2025, c. 567, §1 (NEW).

§2146. Fees

Each application for a license under this chapter must be accompanied by the fee established by the department. The fee is not refundable. All fees received by the department under this chapter must be paid into the State Treasury to the credit of the department for the purpose of reducing the costs of carrying out this chapter. [PL 1995, c. 620, §2 (AMD).]

SECTION HISTORY

PL 1983, c. 570 (NEW). PL 1991, c. 528, §J3 (AMD). PL 1991, c. 528, §RRR (AFF). PL 1991, c. 591, §J3 (AMD). PL 1995, c. 620, §2 (AMD).

§2147. Exclusions

The following are exempt from the provisions of this chapter: [PL 1983, c. 570 (NEW).]

1. Hospice organizations; volunteer services. Hospice organizations in which services are provided substantially by volunteers;
[PL 1983, c. 570 (NEW).]

2. Families, friends and neighbors. Families, friends and neighbors;
[PL 1983, c. 570 (NEW).]

3. Sole practitioners. Sole practitioners otherwise licensed by the State;
[PL 1983, c. 570 (NEW).]

4. Physicians. Services provided directly by physicians;

[PL 1983, c. 570 (NEW).]

5. Elderly nutrition programs. Elderly nutrition programs;
[PL 1983, c. 570 (NEW).]

6. Chore services. Chore services;
[PL 1983, c. 570 (NEW).]

7. Pharmacy or medical supply company. Any pharmacy or medical supply company which furnishes no home health services to persons in their homes except supplies;
[PL 1983, c. 570 (NEW).]

8. Persons or agencies contracting or arranging home health services. Anyone contracting or arranging for home health services provided by home health care providers licensed or excluded under this chapter;
[PL 1983, c. 570 (NEW).]

9. Departments. Departments of State Government;
[PL 1983, c. 570 (NEW).]

10. Facilities licensed pursuant to chapter 405. Hospitals, intermediate care facilities, skilled nursing facilities or other facilities licensed pursuant to chapter 405 when the services are provided to clients residing in those facilities, or to 6 or fewer clients at any one time in their homes under a plan of care approved by the department or its designee when it is documented in the patient's record that the licensed home health care agency or agencies serving the patient's area:

A. Have indicated that they are unable to provide those services; or [PL 1987, c. 486, §2 (NEW).]

B. Agree that the plan of care is an acceptable plan. [PL 1987, c. 486, §2 (NEW).]

The plan of care must meet standards for staff qualifications and supervision consistent with the standards required of licensed home health care providers;
[PL 1987, c. 486, §2 (AMD).]

11. Licensed residential care facilities. Residential care facilities licensed pursuant to chapters 1663 and 1664 when the services are provided to clients residing in those facilities;
[PL 2001, c. 596, Pt. B, §8 (AMD); PL 2001, c. 596, Pt. B, §25 (AFF).]

12. Municipal entities. Municipal departments or agencies or other municipal entities in their provision of nontherapeutic preventive and promotional health educational services when persons providing those services are employed by the municipality;
[PL 2023, c. 195, §1 (AMD); PL 2023, c. 267, §2 (AMD).]

13. Speech and hearing centers.
[PL 2013, c. 336, §2 (RP).]

14. Registered nurse educators. Registered nurse educators;
[RR 2023, c. 1, Pt. A, §9 (COR).]

15. Community paramedicine services. Community paramedicine services as defined in Title 32, section 83, subsection 9-C and licensed under Title 32, chapter 2-B. This exemption applies for the express and exclusive purpose of delivering community paramedicine, as long as:

A. The care is episodic. For the purposes of this paragraph, "episodic" means an encounter with a patient focused on presenting concerns and an identified medical condition in which neither the community paramedic nor the patient has the expectation of an ongoing general home care relationship; and [PL 2023, c. 195, §3 (NEW).]

B. The Emergency Medical Services Board adopts rules requiring authorized community paramedicine services to:

(1) Comply with the Maine Background Check Center Act requirements as described in chapter 1691;

(2) Conduct initial and ongoing training of all staff regarding their obligations as mandatory reporters;

(3) Meet licensing standards consistent with those required by section 2145, subsection 3 and 4; and

(4) Coordinate with home health agencies; and [RR 2025, c. 2, Pt. A, §117 (COR).]
[RR 2025, c. 2, Pt. A, §117 (COR).]

REVISOR'S NOTE: (Subsection 15 as enacted by PL 2023, c. 267, §4 is REALLOCATED TO TITLE 22, SECTION 2147, SUBSECTION 16)

16. (REALLOCATED FROM T. 22, §2147, sub-§15) Certified nurse practitioners. Services provided directly by certified nurse practitioners.
[PL 2023, c. 267, §4 (NEW); RR 2023, c. 1, Pt. A, §11 (RAL).]

SECTION HISTORY

PL 1983, c. 570 (NEW). PL 1985, c. 189, §§2,3 (AMD). PL 1987, c. 486, §2 (AMD). PL 1989, c. 119, §§2-4 (AMD). PL 2001, c. 596, §B8 (AMD). PL 2001, c. 596, §B25 (AFF). PL 2013, c. 336, §§2, 3 (AMD). PL 2023, c. 195, §§1-3 (AMD). PL 2023, c. 267, §§2-4 (AMD). RR 2023, c. 1, Pt. A, §§9, 10 (COR). RR 2023, c. 1, Pt. A, §11 (COR). RR 2023, c. 2, Pt. A, §30 (COR). PL 2025, c. 635, §1 (AMD). RR 2025, c. 2, Pt. A, §117 (COR).

§2148. Right of entry and inspection

The department and any duly designated officer or employee thereof shall have the right to enter upon and into the premises of any home health care provider who has applied for a license or who is licensed pursuant to this chapter at any reasonable time and, upon demand, have the right to inspect and copy books, accounts, papers, records and other documents in order to determine the state of compliance with this chapter and any rules in force pursuant thereto. The right of entry and inspection shall extend to any premises and documents of providers whom the department has reason to believe are providing home health services without a license, but no such entry or inspection may be unreasonable or made without the permission of the owner or person in charge thereof, unless a warrant is first obtained from the District Court authorizing that entry or inspection. [PL 1983, c. 570 (NEW).]

SECTION HISTORY

PL 1983, c. 570 (NEW).

§2149. Compensation for home health care providers

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Home health care provider" means an organization designated as a home health agency under rules of the department or certified by Medicare for delivery of home health services. [PL 1987, c. 829, §1 (NEW).]
[PL 1987, c. 829, §1 (NEW).]

2. Compensation. In determining levels of reimbursement in rate structures established for home health care providers, the department shall:

A. Formulate payment rates for various types of care provided based on the service costs attributable to each home health care provider, as determined by such standard methods as the department may establish; [PL 1987, c. 829, §1 (NEW).]

B. Adjust rates accordingly, at least annually, for alternative programs to institutional care for optimal service delivery to eligible clients, but not to exceed the costs of nursing home care; [PL 1987, c. 829, §1 (NEW).]

C. Recognize the provider's reasonable costs of recruiting, training and retaining qualified staff, including registered nurses, licensed practical nurses, certified nurse aides, home health aides and allied personnel; and [PL 1987, c. 829, §1 (NEW).]

D. Implement this subsection in such a manner which does not result in a decrease in numbers of clients or units of service. The monthly limits on costs per individual receiving in-home services as an alternative to institutional care shall be at least $1,878 for skilled level care and $1,361 for intermediate level care. [PL 1987, c. 829, §1 (NEW).]

[PL 1987, c. 829, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 829, §1 (NEW).

§2149-A. Policies and procedures; employment

The requirements of this section apply to home health care providers required to be licensed under this chapter. [PL 2003, c. 634, §4 (NEW).]

1. Policies and procedures. A home health care provider shall develop and implement written policies and procedures that prohibit abuse, neglect or misappropriation of a client's property. [PL 2003, c. 634, §4 (NEW).]

2. Prohibited employment based on disqualifying offenses. A home health care provider shall conduct a comprehensive background check for direct access personnel, as defined in section 1717, subsection 1, paragraph A-2, in accordance with state law and rules adopted by the department and is subject to the employment restrictions set out in section 1812-G and other applicable federal and state laws when hiring, employing or placing direct access personnel, including a certified nursing assistant or a direct care worker.

A. [PL 2015, c. 494, Pt. A, §20 (RP).]

B. [PL 2015, c. 494, Pt. A, §20 (RP).]

C. [PL 2015, c. 494, Pt. A, §20 (RP).]

The department may adopt rules necessary to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2015, c. 494, Pt. A, §20 (RPR).]

SECTION HISTORY

PL 2003, c. 634, §4 (NEW). PL 2011, c. 257, §17 (AMD). PL 2015, c. 196, §12 (AMD). PL 2015, c. 299, §20 (AMD). PL 2015, c. 494, Pt. A, §20 (AMD).

§2149-B. Home health aide services to minors

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE ON CONTINGENCY: See PL 2023, c. 412, Pt. GGG, §5)

Notwithstanding section 2147, subsection 2, a parent of a child who is eligible for home health aide services under the MaineCare program may receive reimbursement for providing those services to the child pursuant to this section and according to department rule. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2023, c. 412, Pt. GGG, §1 (NEW); PL 2023, c. 412, Pt. GGG, §5 (AFF).]

SECTION HISTORY

PL 2023, c. 412, Pt. GGG, §1 (NEW). PL 2023, c. 412, Pt. GGG, §5 (AFF).

§2150. Compliance

Any home health care provider that provides services for which a license is required without obtaining a license commits a civil violation and is subject to a civil penalty for which a forfeiture of $100 may be adjudged. Each day constitutes a separate violation. [PL 1989, c. 579, §5 (NEW).]

SECTION HISTORY

PL 1989, c. 579, §5 (NEW).

§2150-A. Advisory Committee on Home Health

(REPEALED)

SECTION HISTORY

PL 1989, c. 601, §A2 (NEW). PL 1991, c. 622, §S28 (RP).

§2150-B. Staff; hiring; policy

(REPEALED)

SECTION HISTORY

PL 1995, c. 620, §3 (NEW). PL 2003, c. 634, §5 (RP).

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