**TITLE 175 - HEALTH CARE FACILITIES AND SERVICES LICENSURE**

**CHAPTER 14 - HOME HEALTH AGENCIES**

**001. SCOPE AND AUTHORITY.** These regulations govern licensing of home health agencies under the Health Care Facility Licensure Act, Nebraska Revised Statutes (Neb. Rev. Stat.) §§ 71-401 to 71-479.

**002. DEFINITIONS.** Definitions set out in the Health Care Facility Licensure Act, the Uniform Credentialing Act, the Medication Aide Act, 175 Nebraska Administrative Code (NAC) 1, and the following apply to this chapter.

002.01 ABUSE Any knowing, intentional, or negligent act or omission on the part of a person which results in physical abuse, sexual abuse, verbal abuse, or mental abuse, unreasonable confinement, cruel punishment, exploitation, or denial of care, treatment, or services to a consumer.

002.02 BRANCH OFFICES. Those locations from which the parent home health agency has been approved by the Department to provide the same full range of care, treatment, and services provided by the parent home health agency issued the license within a portion of the total approved geographic area served by the parent home health agency. Branch offices are a part of the parent home health agency and share administration, supervision, and services with the parent home health agency on a daily basis.

002.03 CAREGIVER. Has the same meaning as caretaker found in Neb. Rev. Stat. § 71-6721.

002.04 CERTIFIED SOCIAL WORKER. An individual who holds an active master social worker certificate issued by the Department.

002.05 CHEMICAL RESTRAINT. A psychopharmacologic drug that is used for discipline or convenience and is not required to treat medical symptoms.

002.06 CONSUMER'S RESIDENCE. The actual place of temporary or permanent residence of a person, used as that person's home, other than a hospital or nursing home.

002.07 DEVICE. An instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, part, or accessory, which is prescribed by a medical practitioner and dispensed by a pharmacist or other person authorized by law to do so.

002.08 DIALYSIS. The process of removing waste products and excess fluid from the body when the kidneys are not able to adequately filter the blood. Types of dialysis include hemodialysis and peritoneal dialysis.

002.09 DIRECT SUPERVISION. The responsible practitioner is physically present in the consumer care, treatment and service area and is available to assess, evaluate and respond immediately. Direct supervision does not

mean the responsible practitioner must be in the same room or looking-over-the-shoulder of the staff providing care, treatment, or services to the consumer.

002.10 EXPLOITATION. The taking of property of a consumer by means of undue influence, breach of a fiduciary relationship, deception, or extortion or by any unlawful means.

002.11 FULL-TIME BASIS. Provision of services for a continuous 24-hour period.

002.12 GEOGRAPHIC AREA SERVED. Includes all counties pre-approved by the Department where the home health agency can provide care, treatment, and services. Counties must be contiguous with the county where the parent home health agency is located.

002.13 HOME. The consumer's permanent or temporary residence, other than a hospital or a nursing home.

002.14 HOME CARE EQUIPMENT AND SUPPLIES. Equipment or supplies used in the consumer's home and needed by the consumer to maintain the consumer's highest level of function in the home.

002.15 HOME HEALTH AIDE SERVICES. The use of a trained, supervised paraprofessional to provide one or more of the following: personal care, assistance with activities of daily living, or basic therapeutic care to consumers of a home health agency.

002.16 INTERMITTENT BASIS. The provision of services for less than 4 hours in any 24-hour period.

002.17 INTRAVENOUS THERAPY. Initiating and monitoring therapy related to substances that are administered intravenously.

002.18 MEDICALLY FRAGILE PERSON. An individual whose medical condition is unstable, requires medical or nursing judgment, and whose physical status may or may not be frail or fragile.

002.19 MEDICATION REMINDERS. Verbal reminders to a person to take the person's medication which does not include touching or handling of the medication or the container where the medication is stored. Medication reminders do not include administration or provision of medication as defined in the Medication Aide Act and 172 NAC 95 and 96.

002.20 MENTAL ABUSE. Humiliation, harassment, threats of punishment or deprivation, or other actions causing mental anguish.

002.21 NEGLECT. A failure to provide care, treatment, or services necessary to avoid physical harm or mental anguish of a consumer.

002.22 PARENT HOME HEALTH AGENCY. The home health agency issued the license and is responsible for consumer admissions; care, treatment, and

services provided to consumers; implementation of the plan of care; and ensuring administrative and supervisory control of its branch offices.

002.23 PART-TIME BASIS. The provision of services for less than 24 hours but more than 4 hours in any 24-hour period.

002.24 PHYSICAL ABUSE. Hitting, slapping, pinching, kicking, or other actions causing injury to the body.

002.25 PHYSICAL RESTRAINT. Any manual method or physical or mechanical device, material, or equipment attached or adjacent to the consumer's body that the consumer cannot remove easily and that restricts freedom of movement or normal access to the consumer's own body.

002.26 PRACTITIONER. A nurse practitioner, osteopathic physician, physician, or physician assistant.

002.27 SEXUAL ABUSE. Sexual harassment, sexual coercion, or sexual assault.

002.28 STAFF. An individual who is a direct or contracted employee of the home health agency.

002.29 SUPERVISION. The authoritative guidance which is given by a qualified person of the appropriate discipline. Supervision includes initial direction and periodic indirect and direct monitoring of services.

002.30 THERAPEUTIC SERVICE. Any or all of the following services: skilled nursing care; physical therapy; speech-language pathology; occupational therapy; respiratory care; home health aide services; social work services; intravenous therapy; and dialysis.

002.31 VERBAL ABUSE. The use of oral, written, or gestured language including disparaging or derogatory terms to consumers or within their hearing distance of the consumer or within the consumer's sight.

**003. LICENSING REQUIREMENTS.** To receive a license, an applicant or licensee must submit a complete application, must meet the service and staffing requirements shown below, and must meet all requirements set out in statute, in 175 NAC 1-003, and in this chapter.

003.01 INITIAL LICENSURE FEES. The fees for home health agencies are set out below:

(A) Initial License $650.

003.02 RENEWAL LICENSURE FEES. The fees for renewal of a home health agency license are set out below:

(A) 1 to 50 unduplicated consumer admissions in the past year $650;
(B) 51 to 200 unduplicated consumer admissions in the past year $850; and

(C) 201 or more unduplicated consumer admissions in the past year $950.

003.03 SERVICES AND STAFFING. The home health agency must:

(A) Be primarily engaged in providing skilled nursing care or a minimum of 1 other therapeutic service including physical therapy, speech-language pathology, occupational therapy, respiratory care, home health aide services, social work services, intravenous therapy, or dialysis. These services must only be provided in approved counties;
(B) Only accept a consumer for admission to the agency when the agency can meet the consumer's needs for care, treatment, and services;
(C) Be responsible for coordination of all consumer services, the agency agrees to provide for the consumer, when the agency provides more than one service to a single consumer;
(D) Assure when services are provided under arrangement with another entity, agency or with an individual, such services must be subject to a written contract conforming to the requirements of 175 NAC 14; and
(E) Assure a supervising registered nurse is available or on call to the staff during all hours that skilled nursing care, home health aide services, or any combination of these services are provided for consumers.

**004. INSPECTIONS.** The licensee must be available for unannounced, onsite inspections at the parent and branch locations during all hours of care, treatment, and services are provided for consumers and during business hours required for state inspectors.

**005. GENERAL REQUIREMENTS.** The licensee must meet all requirements shown at 175 NAC 1-005.03 through 1-005.07 and this chapter.

005.01 NOTIFICATIONS. The licensee must:

(A) Meet notification requirements at 175 NAC 1-005.01 (A), (D), (E), (G) (i), (G)(iii);
(B) Notify the Department in writing at least 30 working days before the home health agency would like to add a service or branch office; and
(C) Notify the Department in writing within 24 hours of a consumer's death which occurred while staff were present, or scheduled to be present, in the consumer's home to provide care, treatment, or services and the consumer's death was due to:

(i) Suicide;
(ii) A violent act;
(iii) Drowning; or
(iv) During or immediately after a restraint or seclusion was utilized.

005.02 EFFECTIVE DATE AND TERM OF LICENSE. The home health agency license expires on January 31 of each year.

005.03 CHANGE OF OWNERSHIP OR PREMISES. Change of ownership terminates the license. Change of premises does not terminate the license of a home health agency.

005.04 BRANCH OFFICES. The parent home health agency is responsible for all care, treatment, and services provided at the parent and branch locations. All deficient practices cited at any home health agency branch or parent location apply to all locations under that licensee's home health agency license. A branch office is not required to independently meet licensure requirements but must meet supervision requirements for branch offices as shown below. Branch offices must:

(A) Be approved by the Department before becoming operational;
(B) Provide the same full range of care, treatment, and services provided by the parent home health agency issued the license within a portion of the total approved geographic area served by the parent home health agency;
(C) Be part of the parent home health agency and share administration, supervision, and services with the parent home health agency on a daily basis;
(D) Be located sufficiently close to the parent home health agency to share administration, supervision, and services with the parent home health agency on a daily basis;
(E) Have onsite supervisory visits by the home health agency administrator or the administrator's designated person of the parent home health agency at least once a month with documentation of these supervisory visits being maintained at the parent home health agency location;
(F) Maintain copies of all agency policies, procedures, and forms at the branch location;
(G) Maintain complete clinical records for all branch consumer's care, treatment, and services; and
(H) Maintain in the parent home health agency for all consumers receiving services from branch offices the following:

(i) Consumer identifying information;
(ii) Name, address, and telephone number of consumer's practitioner;
(iii) Consumer diagnosis;
(iv) The services being provided to the consumer; and
(v) The above information must be maintained until the complete clinical record is either stored at the parent home health agency or can be destroyed.

005.05 SIGNAGE. The licensee must place a sign, on the agency's entrance door, which contains the agency's name and physical address as they appear on the home health agency license issued by the Department.

**006. CONSTRUCTION.** The construction requirements at 175 NAC 1 do not apply to a home health agency.

**007. PHYSICAL PLANT.** The licensee, when sharing space with another entity that does not have common ownership with the licensee, must ensure the home health agency has a unique physical address to ensure mail is secured against unauthorized access and must ensure a separate entrance to the home health agency space to ensure verbal communications are protected against unauthorized access.

**008. RECORDKEEPING.** The licensee must meet all recordkeeping requirements at 175 NAC 1 and in this chapter and must prevent unauthorized access to agency records by other entities sharing the space.

**009. ENVIRONMENTAL SERVICES.** The environmental requirements set out in 175 NAC 1 do not apply to a home health agency.

**010. STANDARDS OF OPERATION, CARE, AND TREATMENT.** The licensee has the responsibility to determine, implement, and monitor policies that govern the total operation and maintenance of the agency and to assure protection to home health consumers and compliance with state statutes and regulations. All services provided by the licensee must be provided in accordance with the Health Care Facility Licensure Act, the Uniform Credentialing Act, the Medication Aide Act, the regulations adopted under those Acts, medical practitioner orders, the practitioner-approved written plan of care, and prevailing standards of practice.

010.01 LICENSEE. The licensee is responsible for compliance with statutes and regulations, the management, and fiscal affairs of the home health agency and for making written policies and procedures available to staff and consumers. All services are to be provided in accordance with accepted standards of practice. Each employee is to report suspected abuse, neglect, or exploitation of a consumer served by the home health agency in accordance with the Adult Protective Services Act or the Child Protection Act, as applicable, and to the Administrator. The licensee must:

(A) Select and employ an administrator, and a back-up administrator, as described in this chapter;
(B) Implement written policies and procedures for the operation and administration of the home health agency which include:

(i) Range of services to be provided;
(ii) Approved geographic area served;
(iii) Personnel, policies, procedures, and job descriptions for each staff position, which includes minimum qualifications for the position;
(iv) Criteria for admission, discharge; and transfer of consumers, which ensures only individuals whose needs can be met by the home health agency staff will be admitted as consumers;
(v) A process for authorized staff to obtain and incorporate written and verbal practitioner and other medical practitioner diagnostic, therapeutic, and medication orders into the consumer's plan of care;
(vi) Consumer care policies and procedures;
(vii) A process for disposal of controlled drugs maintained in the consumer's home when those drugs are no longer needed by the

consumer or are expired; and
(viii) A process for use and removal of records and conditions for release of information;

(C) Maintain documentation demonstrating that the requirements of this chapter are met; and
(D) Have records available for inspection and copying by authorized representatives of the Department.

010.02 ADMINISTRATION. The licensee must set out the duties and responsibilities of the administrator in writing. The administrator must report and be directly responsible to the licensee in all matters related to the maintenance, operation, and management of the home health agency. The licensee must organize, manage, and administer resources to assure each consumer admitted for services receives the necessary level of care, treatment, and services in a manner consistent with the consumer's needs and desires.

010.02(A) ADMINISTRATOR QUALIFICATIONS. The administrator and back-up administrator must:

(i) Be a practitioner holding an active credential under the Uniform Credentialing Act to practice as a practitioner in Nebraska;
(ii) Be a registered nurse holding an active credential under the Uniform Credentialing Act to practice as a registered nurse in Nebraska or authority based on the Nurse Licensure Compact to practice as a registered nurse in Nebraska;
(iii) Be a Nursing Home Administrator holding an active credential under the Uniform Credentialing Act to practice as a Nursing Home Administrator in Nebraska; or
(iv) Be an individual with:

(1) A bachelor's degree in health care administration, physical therapy, occupational therapy, speech-language pathology, respiratory therapy, or related field; and
(2) 2 years or more of full-time work experience in home health care or related health care program.

010.02(B) ADMINISTRATOR RESPONSIBILITIES. The administrator is responsible for the management of the agency to the extent authority is delegated by the licensee. A back-up administrator must be designated in writing to act in the absence of the administrator. The administrator has the following responsibilities:

(i) Ensuring staff's compliance with all applicable statutes, regulations, and rules;
(ii) Overseeing and being responsible for the provision and coordination of consumer care, treatment, and services;
(iii) Organizing and directing the agency's ongoing functions;
(iv) Maintaining communication between the licensee and staff;
(v) Employing sufficient number of staff with appropriate training and skills to meet consumers' care, treatment, and service needs

identified in consumers' plan of care and in accordance with job descriptions;
(vi) Implementing written personnel policies, job descriptions, and current agency policies and procedures;
(vii) Ensuring written policies, procedures and forms are individualized for the home health agency and contain effective dates and revisions dates;
(viii) Ensuring the home health agency maintains a copy of all active policies, procedures and forms and are available for staff use;
(ix) Ensuring the home health agency maintains a copy of all inactive policies, procedures, and forms for a minimum of 7 years after the document becomes inactive;
(x) Ensuring an investigation is completed on suspected abuse, neglect, exploitation, or misappropriation of money or property and take action to prevent recurrence and to protect all agency consumers from or the potential for such until the investigation is completed;
(xi) Providing orientation for new staff, scheduled in-service education programs, and opportunities for continuing education of the staff;
(xii) Maintaining appropriate personnel and administrative records;
(xiii) Ensuring the completion, maintenance, and submission of reports and records as required by the Department; and
(xiv) Supervising branch offices. Onsite supervision of branch staff must be provided by the administrator or the administrator's designated person of the parent home health agency at least once a month. Documentation of these visits must be maintained at the parent home health agency.

010.03 MEDICAL DIRECTOR. A licensee providing respiratory care services through a respiratory care practitioner, must:

(A) Have a medical director; and
(B) Meet the requirements in Neb. Rev. Stat. § 38-3214.

010.04 STAFF REQUIREMENTS. The licensee must maintain a sufficient number of staff with the required training and skills to provide the services listed on the agency license and to meet the needs of each consumer accepted for care, treatment, or services in a safe and timely manner.

010.04(A) EMPLOYMENT ELIGIBILITY. Each licensee must maintain evidence of the following:

010.04(A)(i) CRIMINAL BACKGROUND CHECKS. Completed pre-employment criminal background checks for each direct care staff member through a governmental law enforcement agency or a private entity that maintains criminal background information.

010.04(A)(ii) REGISTRY CHECKS. Completed pre-employment checks for each direct care staff for adverse findings on the following Nebraska registries:

(1) Nurse Aide Registry;
(2) Adult Protective Services Central Registry;
(3) Central Registry of Child Protection Cases; and
(4) Sex Offender Registry.

010.04(A)(iii) HIRING DECISIONS. The licensee must:

(1) Determine how to use the criminal background and registry information, except for the Sex Offender Registry and the Nurse Aide Registry, in making hiring decisions;
(2) Decide whether employment can begin prior to receiving the criminal background and registry information; and
(3) Document any decisions to hire a person with a criminal background or adverse registry findings, except for the Sex Offender Registry and the Nurse Aide Registry. The documentation must include the basis for the decision and how it will not pose a threat to consumer safety or consumer property.

010.04(A)(iv) ADVERSE FINDINGS. The licensee cannot employ a person with adverse findings on the Sex Offender Registry or on the Nurse Aide Registry.

010.04(A)(v) HEALTH STATUS. The licensee must implement written policies and procedures regarding the health status of staff to prevent transmission of disease to consumers. The licensee must complete a health screening for each staff prior to the staff having contact with or providing direct care, treatment, or services for any consumer.

010.04(B) EMPLOYMENT RECORD. A current employment record must be kept for each staff which includes:

(i) The title of that individual’s position, qualifications, and description of the duties and functions assigned to that position;
(ii) Evidence of licensure, certification, or approval, if required;
(iii) Performance evaluations made within 6 months of employment and annually thereafter;
(iv) Post hire and pre-employment health history screening; and
(v) Documentation of all training.

010.04(C) ORIENTATION. An orientation program must be provided for all new staff and as needed, for existing staff who are given new assignments. Such training must be documented in the employment record. The orientation program must include:

(i) Job duties and responsibilities;
(ii) Organizational structure;
(iii) Consumer rights;
(iv) Consumer care policies and procedures;
(v) Personnel policies and procedures; and
(vi) Reporting abuse, neglect, and exploitation in accordance with

state law.

010.04(D) TRAINING. All staff must receive training in order to perform job responsibilities and include training to perform particular procedures or to provide specialized care.

010.04(D)(i) RECORDS. The licensee must maintain records of each orientation and other training program, including the signature of staff attending, subject-matter of the training, the names and qualifications of instructors, dates of training, length of training sessions, and any written materials provided.

010.04(E) INDIVIDUALS UNDER HOURLY OR PER-VISIT CONTRACTS. If individuals or entities under hourly or per-visit contracts are utilized there must be a written contract between the licensee and the individual or entity. The licensee must maintain a copy of all active contracts and retain copies of discontinued contracts for seven years after the contract is discontinued. The contract must include:

(i) A statement that consumers are accepted for care only by the parent home health agency;
(ii) A description of the services and the manner in which they are to be provided;
(iii) A statement that the contractor must conform to all applicable agency policies, including those related to qualifications;
(iv) A statement that the contractor is responsible for participating in the development of plans of care;
(v) A statement that the services are controlled, coordinated, and evaluated by the parent agency;
(vi) The procedures for submitting clinical and progress notes, scheduling consumer care, and continuing periodic consumer evaluations; and
(vii) The procedures for determining charges and reimbursement.

010.04(F) SKILLED NURSING CARE. Skilled nursing care must be provided by registered or licensed practical nurses. A registered nurse must be available or on call to the staff during all hours that skilled nursing care is provided.

010.04(F)(i) CRITERIA. Criteria and need for skilled nursing care includes:

(1) Services of such complexity that they can be safely and effectively performed only by or under the supervision of a registered nurse;
(2) Services not normally requiring skilled nursing care, but which, because of special medical complications, become skilled nursing care because they need to be performed or supervised by a registered nurse; and
(3) The above services when needed to prevent a consumer’s further deterioration or preserve a consumer’s current capabilities even if recovery or medical improvement is not

possible.

010.04(F)(ii) PROVIDED BY A REGISTERED NURSE. When skilled nursing care is ordered by a practitioner, the following specific services must be provided by a registered nurse:

(1) Initial nursing assessment visit to a consumer requiring skilled nursing care;
(2) Reevaluation of the consumer's nursing needs;
(3) Provision of services requiring specialized nursing skill;
(4) Initiation of preventive and rehabilitative nursing procedures;
(5) Coordination of services; and
(6) Supervision of other nursing personnel.

010.04(F)(iii) PROVIDED BY A REGISTERED NURSE OR LICENSED PRACTICAL NURSE. When skilled nursing care is ordered by a practitioner, the following specific services may be performed by a registered nurse or by a licensed practical nurse if the licensed practical nurse is under the supervision of a registered nurse:

(1) Implementing the plan of care and necessary revisions to the plan of care. A registered nurse must review the plan of care as often as the severity of the consumer's condition requires, but at least every 62 days;
(2) Preparation of clinical and progress notes;
(3) Informing the practitioner, and other personnel of changes in the consumer's conditions and needs;
(4) Teaching other nursing personnel; and
(5) Teaching the consumer and caregiver for the purpose of meeting nursing and other related needs.

010.04(G) HOME HEALTH AIDE AND MEDICATION AIDE. Each licensee that employs or contracts home health aides or medication aides must meet the following requirements for training and testing prior to providing care and services to consumers and for providing services:

(i) Use only home health aides qualified to provide home health care pursuant to Neb. Rev. Stat. §§ 71-6601 to 71-6615. Any home health aide not acting as such for a period of 3 years must repeat the 75-hour training course;
(ii) Provide direction by using an aide care plan and assignment sheet written by a registered nurse and through registered nurse supervision of home health aides. The licensee must ensure a registered nurse is available or on call to the staff during all hours that home health aide or medication aide services are provided. Any other task the licensee chooses to have a home health aide perform must not include a task which requires a credential;
(iii) Provide in-service training as required by Neb. Rev. Stat. § 71-6606;
(iv) Only allow home health aides to perform acts permitted in Neb. Rev. Stat. § 71-6605;
(v) If the licensee uses unlicensed individuals to provide medication

the individuals must be registered as a Medication Aide;
(vi) Verify and document the competency of all home health aides prior to an aide providing services in a consumer's home. The competency evaluation items are set out at Neb. Rev. Stat. § 71-6608.01 in subdivisions (1)(b) through (1)(m). All competency evaluations must be performed by a registered nurse through observation and a written or oral examination. A consumer or individual are to be included in the observation portion of the competency evaluation for the requirements in Neb. Rev. Stat. § 71-6608.01 in subdivisions (1)(c), 1(i), 1(i)(i) through 1(i)(vi), (1)(j) and (1)(k). The competency evaluation for the requirements at Neb. Rev. Stat. § 71-6608.01 in subdivisions (1)(a), (1)(b), (1)(d) through (1)(h), (1)(l) and (1)(m) are to be included in the written or oral examination;
(vii) Use a home health aide care plan and supervision that meets the requirements in Neb. Rev. Stat. § 71-6607 and which includes:

(1) An initial evaluation visit to each consumer by a registered nurse:

(a) Prior to home health aide services being provided;
(b) A written plan of care developed by a registered nurse and approved by the practitioner. The registered nurse is responsible for reviewing the plan as often as the severity of the consumer's condition requires, and at least every 62 days. If the home health aide provides only personal care or activities of daily living the clinical record does not need to contain a practitioner's order for the care; and
(c) Consumer-specific written instructions for each consumer;

(2) Documentation of each visit made by a home health aide; and

(viii) Ensure each home health aide provides services in accordance with the practitioner-approved written plan of care and the home health aide care plan.

010.04(H) PHYSICAL THERAPY. Physical therapy services must be provided by a physical therapist A physical therapist must make an initial evaluation visit to each consumer for whom the practitioner orders home physical therapy services and must devise a written plan of care for the practitioner's approval. The physical therapist must review this plan of care as often as the severity of the consumer's condition requires, but at least every 62 days.

010.04(I) SPEECH-LANGUAGE PATHOLOGY. Speech-language pathology services must be provided by a speech-language pathologist. A speech-language pathologist must make an initial evaluation visit to each consumer for whom the practitioner orders home speech-language pathology services and must devise a written plan of care for the practitioner's approval. The speech-language pathologist must review this plan of care as often as the severity of the consumer's condition

requires, but at least every 62 days.

010.04(J) OCCUPATIONAL THERAPY. Occupational therapy services must be provided by an occupational therapist. An occupational therapist must make an initial evaluation visit to each consumer for whom the practitioner orders home occupational therapy services and must devise a written plan of care for the practitioner's approval. The occupational therapist must review this plan of care as often as the severity of the consumer's condition requires, but at least every 62 days.

010.04(K) RESPIRATORY CARE. A respiratory care practitioner or physician must make an initial evaluation visit to each consumer for whom the practitioner orders home respiratory care services and must devise a written plan of care for the approval of the consumer's practitioner and the agency's medical director. The respiratory care practitioner, practitioner along with the agency's medical director, must review this plan of care as often as the severity of the consumer's condition requires, but at least every 62 days.

010.04(L) SOCIAL WORK SERVICES. Social work services must be provided by a certified social worker with a master's or doctoral degree and who has 1 year of social work experience in a health care setting. A certified social worker must make an initial evaluation visit to each consumer for whom the practitioner orders social work services and must devise a written plan of care for the practitioner's approval. The certified social worker must review this plan of care as often as the severity of the consumer's condition requires, but at least every 62 days.

010.04(M) DIALYSIS. Home dialysis services must be provided by a registered nurse trained in dialysis. A registered nurse, trained in dialysis, must make an initial evaluation visit to each consumer for whom the practitioner orders dialysis and must devise a written plan of care for the practitioner's approval. The registered nurse must review this plan of care as often as the severity of the consumer's condition requires, but at least once every 62 days. Home dialysis services include:

(i) Hemodialysis; and
(ii) Peritoneal dialysis.

010.04(N) INTRAVENOUS THERAPY. All intravenous therapy services must be provided by a registered nurse. A registered nurse must make an initial evaluation visit to each consumer for whom the practitioner orders home intravenous therapy and must devise a written plan of care for the practitioner's approval. The registered nurse must review the plan of care as often as the severity of the consumer's condition requires, but at least every 62 days. Home intravenous therapy includes, but is not limited to:

(i) Total parenteral nutrition (TPN);
(ii) Hydration therapy;

(iii) Chemotherapy;
(iv) Antibiotic therapy; and
(v) Blood and blood products.

010.05 CONSUMER RIGHTS. The licensee must establish a bill of rights that will be equally applicable to all consumers. The licensee must provide the consumer or designee a written notice of the consumer's rights before providing care, treatment, or services to the consumer Documentation showing the consumer or designee has received and understands the intent of the consumer's rights must be maintained.

010.05(A) RIGHTS. The consumer must have the right to:

(i) Choose the home health agency that provides his or her care;
(ii) Participate in the planning of his or her care and to receive appropriate instructions and education regarding the plan, prior to the care being provided and as changes are made in the plan of care;
(iii) Request information about his or her diagnosis, prognosis, and treatment, including alternatives to care and risks involved, in terms consumers and their families or designees can readily understand;
(iv) Refuse home health care and to be informed of possible health consequences of this action;
(v) Care given without discrimination as to race, color, creed, sex, age, or national origin;
(vi) Be admitted for service only if the licensee has the ability to provide safe, professional care at the level of intensity needed and to reasonable continuity of care;
(vii) Confidentiality of all records, communications, and personal information;
(viii) Review all health records pertaining to the consumer, unless the practitioner has documented otherwise in the medical record;
(ix) Receive both an oral and written explanation regarding termination if services are terminated for any reason other than discharge and receive information regarding community resources. Consumers must receive at least a 2 week notice prior to termination of services. When a consumer is discharged by the practitioner's written order, a 2 week notice is not required. A 2 week notice is not required when consumer services are being terminated based on an unsafe care environment in the consumer's home, consumer non-compliance with the plan of care, or failure to pay for services rendered;
(x) Voice complaints or grievances and suggest changes in service or staff without fear of reprisal or discrimination. Complaints made by the consumer or designee received by the licensee regarding care or treatment must be investigated. The licensee must document both the existence and the resolution of the complaint. The consumer or designee must be informed of the outcome and resolution of the complaint or grievance;
(xi) Be fully informed of agency policies and charges for services, including eligibility for third-party reimbursement, prior to receiving care;

(xii) Be free of verbal, physical, and psychological abuse and to be treated with dignity;
(xiii) Have his or her property treated with respect; and
(xiv) Receive information regarding advance directives.

010.05(B) ADVANCE DIRECTIVES. The home health agency must inform and distribute written information to the consumer or designee, in advance, concerning its policies on advance directives, including a description of applicable state law.

010.05(C) IN-HOME ASSESSMENT AND CONSENT. Authorized agents of the Department have the right, with the consent of the consumer or designee, to visit consumer's homes during the provision of home health services in order to make an assessment of the quality of care being given to consumers.

010.05(C)(i) CONSENT. Consumer or designee whose home is to be visited by an authorized representative of the Department must be notified by the licensee or the Department before the visit, to obtain a verbal consent for the visit. A written consent form clearly stating that the consumer voluntarily agrees to the visit must be presented to and signed by the consumer or designee prior to observation of care or treatment by the Department representative. The licensee must arrange this visit.

010.05(C)(ii) RIGHT TO REFUSE. All consumers have the right to refuse to allow an authorized representative of the Department to enter his or her home for the purposes of assessing the provision of home health services.

010.06 CONSUMER CARE, TREATMENT, AND SERVICES. Home health services must include but are not limited to:

(A) A practitioner's order for care, treatment, or services to be provided in the consumer's home;
(B) A consumer's care must follow a written plan of care devised by a registered nurse or qualified professional of the appropriate discipline after an initial visit to the consumer's home;

(i) The plan of care must be approved by the consumer's practitioner; and
(ii) The plan of care must be reviewed periodically by a registered nurse or other qualified professional of the appropriate discipline as often as the severity of the consumer's condition requires, but at least every 62 days;

(C) A licensee that provides more than one service to a single consumer must be responsible for coordination of those services to assure that the services effectively complement one another and support the objectives in the plan of care; and
(D) A written summary report of the care, treatment, and services provided to the consumer must include pertinent facts from the clinical

notes and progress notes and must be sent to the consumer's attending practitioner as often as the severity of the consumer's condition requires, but at least every 62 days.

010.07 ADMINISTRATION OR PROVISION OF MEDICATIONS. Consumers must receive medications only as legally prescribed by a medical practitioner, in accordance with the practitioner-approved plan of care, the 5 rights, and prevailing professional standards.

010.07(A) METHODS OF ADMINISTRATION. When the licensee is responsible for the administration of medications, it must be accomplished by the following methods:

010.07(A)(i) SELF-ADMINISTRATION OF MEDICATIONS. Consumers must be allowed to self-administer medications, with or without supervision, when the licensee determines that the consumer is competent and capable of doing so and has the capacity to make an informed decision about taking medications in a safe manner. The licensee must implement written policies to address consumer self-administration of medication, including:

(1) Storage and handling of medications;
(2) Inclusion of the determination that the consumer may self-administer medication in the consumer plan of care; and
(3) Monitoring the plan to assure continued safe administration of medications by the consumer.

010.07(A)(ii) LICENSED HEALTH CARE PROFESSIONAL. When the licensee uses a licensed health care professional for whom medication administration is included in the scope of practice, the licensee must ensure the medications are properly administered in accordance with prevailing professional standards and state and federal law.

010.07(A)(iii) PROVISION OF MEDICATION BY A PERSON OTHER THAN A LICENSED HEALTH CARE PROFESSIONAL. When the licensee uses a person other than a licensed health care professional in the provision of medications, the licensee must use individuals who are registered medication aides and must comply with the Medication Aide Act and 172 NAC 95 and 96.

010.07(A)(iv) MAINTAIN OVERALL SUPERVISION, SAFETY, AND WELFARE OF CONSUMERS. When the licensee is not responsible for medication administration and provision, the licensee retains responsibility for overall supervision, safety, and welfare of the consumer.

010.07(B) ADVERSE REACTIONS AND MEDICATION ERRORS. Each licensee must report any adverse reactions to a medication by the consumer and any medication errors in administration or provision of prescribed medications to the consumer's practitioner immediately upon discovery. A written report of the adverse reaction and medication error

must be completed immediately upon discovery and kept in the consumer's record. Errors include any variance from the 5 rights or the prescription.

010.08 RECORDKEEPING REQUIREMENTS. Licensee must have a clinical record for each consumer and provide relevant information from this clinical record to the personnel providing services in the consumer's home. A licensee must maintain and safeguard consumer rosters and clinical records from unauthorized use, loss, and unintended destruction.

010.08(A) CONTENT. The clinical record must contain sufficient information to identify the consumer clearly, to justify the diagnosis, care, treatment, and services, and to document the results of care, treatment, and services accurately. The licensee must provide pertinent current and past medical history to the licensed personnel providing services on its behalf. All clinical records must contain the following:

(i) Identification data and consent forms;
(ii) The name and address of the consumer's physician, or physicians and practitioners;
(iii) The practitioner's signed order for home health care and the practitioner approved plan of care, must include, when appropriate to the services being provided:

(1) Medical diagnosis;
(2) Medication orders;
(3) Dietary orders;
(4) Activity orders; and
(5) Safety orders;

(iv) Initial and periodic assessments and care plan by disciplines providing services;
(v) Signed and dated admission, observation, progress, and supervisory notes;
(vi) Copies of written summary reports sent to the practitioner;
(vii) Diagnostic and therapeutic orders signed by the practitioner;
(viii) Reports of treatment and clinical findings; and
(ix) Discharge summary report.

010.08(B) CENTRALIZED. All clinical information pertaining to the consumer's care must be centralized in the consumer's clinical record maintained by the parent home health agency or by a branch of the home health agency.

010.08(C) TIMELY ENTRIES. Entries into the consumer's clinical record for care, treatment, and services provided must be written within 24 hours and incorporated into the consumer's clinical record within 7 working days. When a Medication Administration Record (MAR) is used by the home health agency, entries into the consumer's Medication Administration Record (MAR) must be made by the staff member who administered or provided the medication to the consumer immediately after administration or provision of the medication and incorporated into

the consumer’s clinical record within 7 working days.

010.08(D) PROVIDER INDENTIFICATION. Entries must be made by the person providing services, must contain a statement of facts personally observed, and must be signed with full name. Initials may be used if identified in the clinical record.

010.08(E) VERBAL ORDERS. All practitioner’s verbal orders for care, treatment, services, and medications must be signed and incorporated into the clinical record within 30 days.

010.08(F) SECURED. Clinical records must be secured in locked storage and electronic records must be password protected. consumer’s or legal designee’s written consent must be required for release of information not otherwise authorized by law.

010.08(G) CONSUMER ROSTER. The licensee must maintain a daily consumer roster which clearly identifies all consumers scheduled and accepted for care, treatment, or services by the agency. The consumer roster must include information necessary to identify each consumer and the care, treatment, and services to be provided by the agency.

010.08(H) CONSUMER TRANSFERS. If a consumer is transferred to another health care facility or agency, information necessary or useful in care and treatment of the consumer must be promptly forwarded in writing to the appropriate facility or agency with the consent of the consumer or the consumer’s legal designee.