216-RICR-40-10-17

TITLE 216 – DEPARTMENT OF HEALTH

CHAPTER 40 – PROFESSIONAL LICENSING AND FACILITY REGULATION

SUBCHAPTER 10 – FACILITIES REGULATION

PART 17 – Licensing Home Nursing Care Providers and Home Care Providers

17.1 Authority

These regulations are promulgated pursuant to the authority conferred under R.I. Gen. Laws § 23-17-10 and 23-17-42 and are established for the purpose of adopting minimum standards for licensed home nursing care and home care providers in this state.

17.2 Incorporated Materials

These regulations hereby adopt and incorporate 42 C.F.R. § 484 (1999) by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these regulations.

17.3 Definitions

A. Wherever used in these rules and regulations the following terms shall be construed to mean:

1. "Abuse" means:

a. Any assault as defined in R.I. Gen. Laws Chapter 11-5, including, but not limited to, hitting, kicking, pinching, slapping, or the pulling of hair; provided, however, unless it is required as an element of the offense charged, it shall not be necessary to prove that the patient or resident was injured by the assault;

b. Any assault as defined in R.I. Gen. Laws Chapter 11-37;

c. Any offense under R.I. Gen. Laws Chapter 11-10;

d. Any conduct which harms or is likely to physically harm the patient or resident except where the conduct is a part of the care and treatment, and in furtherance of the health and safety of the patient or resident;

e. Intentionally engaging in a pattern of harassing conduct which causes or is likely to cause emotional or psychological harm to the

patient or resident, including but not limited to, ridiculing or demeaning a patient or resident, making derogatory remarks to a patient or resident or cursing directed towards a patient or resident, or threatening to inflict physical or emotional harm on a patient or resident.

2. "Administrator" means an individual who:

   a. Is a licensed physician; or

   b. Has training and experience in health service administration and at least one year of supervisory or administrative experience in home nursing care or home care or related health programs; or

   c. Is a registered nurse who meets qualifications of as set forth in 42 C.F.R. § 484 (1999).

3. "Attending physician" means a physician identified by the patient/client/family as having a significant role in the determination and delivery of the individual's medical care.

4. "Branch office" means a location from which a licensed home nursing care provider or licensed home care provider provides services within a portion of the total geographic area served by the licensed central office.

5. "Change in operator" means a transfer by the governing body or operator of a home nursing care or home care provider to any other person (excluding delegations of authority to the medical or administrative staff of the facility) of the governing body's authority to:

   a. Hire or fire the chief executive officer of the home nursing care provider or home care provider;

   b. Maintain and control the books and records of the home nursing care provider or home care provider;

   c. Dispose of assets and incur liabilities on behalf of the home nursing care provider or home care provider; or

   d. Adopt and enforce policies regarding operation of the home nursing care provider or home care provider.

   e. This definition is not applicable to circumstances wherein the governing body of a home nursing care provider or home care provider retains the immediate authority and jurisdiction over the activities enumerated above.

6. "Change in owner" means:

a. In the case of a home nursing care provider or home care provider which is a partnership, the removal, addition, or substitution of a partner which results in a new partner acquiring a controlling interest in such partnership.

b. In the case of a home nursing care provider or home care provider which is an unincorporated solo proprietorship, the transfer of the title and property to another person;

c. In the case of a home nursing care provider or home care provider which is a corporation:

(1) A sale, lease, exchange or other disposition of all, or substantially all of the property and assets of the corporation; or

(2) A merger of the corporation into another corporation; or

(3) The consolidation of two (2) or more corporations, resulting in the creation of a new corporation; or

(4) In the case of a home nursing care provider or home care provider which is a business corporation, any transfer of corporate stock which results in a new person acquiring a controlling interest in such corporation; or

(5) In the case of a home nursing care provider or home care provider which is a non- business corporation, any change in membership which results in a new person acquiring a controlling vote in such corporation.

7. "Director" means the Director of the Rhode Island Department of Health.

8. “Equity” means non-debt funds contributed towards the capital costs related to an initial licensure or change in owner or change in operator of a home nursing care provider or home care provider which funds are free and clear of any repayment or liens against the assets of the proposed owner and/or licensee and that result in a like reduction in the portion of the capital cost that is required to be financed or mortgaged.

9. "Fluency" means the ability to converse freely in a language.

10. "Health care facility" means any institutional health service provider, facility or institution, place, building, agency, or portion thereof, whether a partnership or corporation, whether public or private, whether organized for profit or not, used, operated, or engaged in providing health care services, including, but not limited to, hospitals; nursing facilities; home nursing care providers (which shall include skilled nursing services and

may also include activities allowed as a home care provider or as a nursing service agency); home care provider (which may include services such as personal care or homemaker services); rehabilitation centers; kidney disease treatment centers; health maintenance organizations; free-standing emergency care facilities and facilities providing surgical treatment to patients not requiring hospitalization (surgicenters); hospice care and physician office settings providing surgical treatment. The term "health care facility" also includes organized ambulatory care facilities which are not part of a hospital but which are organized and operated to provide health care services to outpatients such as central services facilities serving more than one (1) health care facility or health care provider, treatment centers, diagnostic centers, rehabilitation centers, outpatient clinics, infirmaries and health centers, school-based health centers, and neighborhood health centers; providing, however, that the term "health care facility" shall not apply to organized ambulatory care facilities owned and operated by professional service corporations as defined in R.I. Gen. Laws Chapter 7-5.1 (the "Professional Service Corporation Law"), or to a private practitioner's (physician, dentist, or other health care provider) office or group of the practitioners' offices (whether owned and/or operated by an individual practitioner, alone or as a member of a partnership, professional service corporation organization, or association). Facilities licensed by the Department of Behavioral Healthcare, Developmental Disabilities and Hospitals and clinical laboratories licensed in accordance with R.I. Gen. Laws Chapter 23-16.2, as well as Christian Science institutions, also known as Christian Science Nursing Facilities, listed and certified by the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc. shall not be considered health care facilities for purposes of these Regulations.

11. “Health care provider” means any person licensed by the State of Rhode Island to provide or otherwise lawfully providing health care services, including, but not limited to, a physician, hospital, intermediate care facility or other health care facility, dentist, nurse, optometrist, podiatrist, physical therapist, psychiatric social worker, pharmacist, or psychologist, and any officer, employee or agent of that provider acting in the course and scope of his/her employment or agency related to or supportive of health services.

12. “High managerial agent" means an officer of a licensee, the administrator and assistant administrator of the facility, the director and assistant director of nursing services, or any other agent in a position of comparable authority with respect to the formulation of policies of the facility or the supervision in a managerial capacity of subordinate employees.

13. "Home care provider" means any person that provides, arranges to provide, offers to provide, or in any other way provides for the delivery of any direct health care services in the home requiring supervision by a

registered nurse (RN), but excludes the delivery of direct nursing care by a registered (RN) or licensed practical (LPN) nurse on an on-going basis; and includes services rendered by a licensed health care professional, including but not limited to, a speech pathologist/audiologist, physical, occupational, or respiratory therapist. Also as used in these Regulations, "home care provider" includes homemaker services as defined in these Regulations. Nursing service agency services may also be provided under this license provided such services are rendered in accordance with the "Rules and Regulations for the Licensing of Nursing Service Agencies."

14. "Home nursing care provider" means any person that provides, arranges to provide, offers to provide, or in any other way provides for the delivery of direct nursing services in the home by a registered (RN) or practical (LPN) nurse. As used in these Regulations, "home nursing care provider" may include home care provider services. Nursing service agency services may also be provided under this license provided such services are rendered in accordance with the "Rules and Regulations for the Licensing of Nursing Service Agencies."

15. "Home health aide" means "nursing assistant".

16. "Homemaker", , means a trained non-professional worker who performs related housekeeping services in the home for the sick, disabled, dependent or infirm.

17. "Homemaker services" means housekeeping services performed in the home for the sick, disabled, dependent, or infirm by a trained non-professional worker who is supervised in accordance with the requirements of § 17.5.3(J)(2) of this Part.

18. "Licensing agency" means the Rhode Island Department of Health.

19. "Medical services" means such professional services and supplies rendered by or under the direction of persons duly licensed under the laws of the State of Rhode Island to practice medicine, surgery or podiatry as may be specified by any medical service plan. Medical services shall not be construed to include hospital services.

20. "Mistreatment" means the inappropriate use of medications, isolation, or use of physical or chemical restraints:

    a. As punishment;

    b. For staff convenience;

    c. As a substitute for treatment or care;

    d. In conflict with a physician's order; or

e. In quantities which inhibit effective care or treatment, or which harms or is likely to harm the patient or resident.

21. "Neglect" means the intentional failure to provide treatment, care, goods, and services necessary to maintain the health and safety of the patient or resident, or the intentional failure to carry out a plan of treatment or care prescribed by the physician of the patient or resident, or the intentional failure to report patient or resident health problems or changes in health problems or changes in health conditions to an immediate supervisor or nurse, or the intentional lack of attention to the physical needs of a patient or resident including, but not limited to toileting, bathing, meals, and safety. No person shall be considered to be neglected for the sole reason that he or she relies on or is being furnished treatment in accordance with the tenets and teachings of a well-recognized church or denomination by a duly-accredited practitioner of a well-recognized church or denomination.

22. "Nursing assistant" means a nurse's aide, or home health aide, who is a paraprofessional, registered, pursuant to the provisions of R.I. Gen. Laws Chapter 23-17.9, and who is trained to give personal care and related health care and assistance based on his/her level of preparation to individuals who are sick, disabled, dependent or infirm, and who are residents of or receive services from health care facilities licensed pursuant to R.I. Gen. Laws Chapter 23-17, or who are receiving services from agencies licensed pursuant to R.I. Gen. Laws Chapter 23-17.7.1.

23. "Patient" means a person who receives home nursing care or home care provider services or who is judged to need home nursing care or home care provider services based upon the results of an initial screening. The terms "patient" and "client" are synonymous in the context of these Regulations.

24. "Person" means any individual, trust or estate, partnership, corporation (including associations, joint stock companies, and insurance companies) state or political subdivision or instrumentality of a state.

25. "Personal care services" means those services provided to a patient that do not require the skills of a licensed nurse. These services may include, but are not limited to: bathing, dressing, grooming, caring for hair/nails, and assistance with ambulation.

26. "Physician" means any individual licensed to practice medicine or osteopathy in Rhode Island or any other state in the United States.

27. “Plan of care” or “care plan”, as used of these Regulations, means the comprehensive written plan for the patient’s care. The plan shall include physician orders for medications, treatments, procedures, or therapeutic services, where indicated; and shall also encompass patient assessments

and treatment goals/objectives, including provisions for personal care and social needs. (For further requirements related to the patient's plan of care, see §§ 17.4.4(A)(4) and 17.6.2(C) of this Part).

28. "R.I. Gen. Laws" means the General Laws of Rhode Island, as amended.

29. "Service(s) provided directly" means services rendered by employees of a licensed home nursing care provider or home care provider.

30. "Supervision" shall mean clinical guidance provided by a qualified person for the assessment and monitoring of patient care management.

    a. Registered nurses and other appropriate professionals of the health care team, licensed, registered and/or certified as may be required by the laws of Rhode Island, shall supervise (directly or indirectly) nursing assistants. A registered nurse shall supervise any acts, functions or tasks performed by a nursing assistant that are nursing-related.

31. "Therapeutic services", as used in these Regulations, means those treatments provided by a licensed health care professional that have medicinal or healing properties, such as infusion, respiratory, occupational, speech, or physical therapy and that are included in the patient's care plan.

32. "These Regulations" mean all parts of Rhode Island rules and regulations for Licensing of Home Nursing Care and Home Care Providers (216-RICR-40-10-17).

33. "Uncompensated care" means health care services provided by a home nursing care or home care provider for which the home nursing care or home care provider does not and has not expected payment and which health care services are not recognized as either a receivable or as revenue in the home nursing care or home care provider's financial statements.

17.4 General Requirements for Licensure and Certificate of Need Requirements

A. No person acting alone or jointly with any other person, shall establish, conduct or maintain a home nursing care provider or home care provider in Rhode Island without a license in accordance with the requirements of R.I. Gen. Laws § 23-17-4 and in conformity with these Regulations. Provided, however, that any person, firm, corporation or other entity which provides volunteer registered and licensed practical nurses to the public shall not be required to have a license as a health care facility.

B. A certificate of need is required as a precondition to the establishment and initial licensure of any home nursing care provider or home care provider and such other activities in accordance with the "Rules and Regulations for Determination of Need for New Health Care Equipment and New Institutional Health Care Services."

1. Any certificate of need required as a precondition to the establishment and initial licensure or any change in owner, operator, or lessee of a licensed home nursing care provider or home care provider shall require prior review by the Health Services Council and approval of the licensing agency in accordance with §§ 17.2.2(C) and (E) of this Part, as a condition precedent to the issuance, transfer, or assignment of a new license.

C. No facility shall hold itself or represent itself as a home nursing care provider or home care provider or use the term "home nursing care provider or home care provider", "home health care provider" or other similar term in its advertising, publicity or any other form of communication, unless licensed as a home nursing care provider or home care provider in accordance with the provisions of these Regulations.

1. Any person establishing, conducting, managing, or operating any home nursing care provider or home care provider without a license shall be fined not more than five thousand dollars ($5,000) or imprisoned not more than one year or both, in the discretion of the court, for each offense.

D. Each home nursing care provider or home care provider that maintains a branch office shall disclose to the licensing agency the location of their records (i.e., central office or branch office). At a minimum, all clinical records shall be maintained at the branch office for those patients served by the branch office.

E. Financial Interest Disclosure

1. Any health care facility licensed pursuant to R.I. Gen. Laws Chapter 23-17 which refers clients/patients to another such licensed health care facility or to a residential care/assisted living facility licensed pursuant to R.I. Gen. Laws Chapter 23-17.4, or to a certified adult day care program in which the referring entity has a financial interest shall, at the time a referral is made, disclose in writing the following information to the client/patient:

a. That the referring entity has a financial interest in the facility or provider to which the referral is being made;

b. That the patient/client has the option of seeking care from a different facility or provider which is also licensed and/or certified by the state to provide similar services to the patient/client.

2. The referring entity shall also offer the patient/client a written list prepared by the Department of Health of all such alternative licensed and/or certified facilities or providers. Said written list may be obtained by contacting:

Rhode Island Department of Health Division of Facilities Regulation

Capitol Hill, Room 306

Providence, RI 02908

F. Non-compliance with §§ 17.4(E)(1) and (2) of this Part shall constitute grounds to revoke, suspend or otherwise discipline the licensee or to deny an application for licensure by the Director, or may result in imposition of an administrative penalty in accordance with R.I. Gen. Laws Chapter 23-17.10.

17.4.2 Application for Certificate of Need or Changes in the Owner, Operator, or Lessee

A. Application for a Certificate of Need for a home nursing care provider or home care provider shall be made on forms provided by the licensing agency, and shall contain, but not be limited to. information pertinent to the statutory purpose expressed in R.I. Gen. Laws Chapter 23-15 or to the considerations enumerated in the "Rules and Regulations for Determination of Need for New Health Care Equipment and New Institutional Health Care Services."

1. Each application for Certificate of Need filed pursuant the provisions of § 17.4.2 of this Part shall be accompanied by an application fee, made payable to the General Treasurer, State of Rhode Island, in the amount specified in the rules and regulations pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health (Part 10-05-2 of this Title).

B. Application for changes in the owner, operator, or lessee of a home nursing care provider or home care provider shall be made on forms provided by the licensing agency and shall contain but not be limited to information pertinent to the statutory purpose expressed in R.I. Gen. Laws § 23-17-3 or to the considerations enumerated in § 17.4.3(G) of this Part.

1. Each application for changes in the owner, operator, or lessee filed pursuant the provisions of § 17.4.2 of this Part shall be accompanied by a non-returnable, non-refundable application fee, made payable to the Rhode Island General Treasurer, in the amount specified in the rules and regulations pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health (Part 10-05-2 of this Title).

C. Review of an application for Certificate of Need for a home nursing care provider or a home care provider shall be conducted according to the procedures and

criteria set forth in the "Rules and Regulations for Determination of Need for New Health Care Equipment and New Institutional Health Care Services." Review of an application for changes in the owner, operator, or lessee of licensed home nursing care provider or home care provider shall be conducted according to the following procedures:

1. Within ten (10) working days of receipt, in acceptable form of an application for initial licensure or for a license in connection with a change in the owner, operator or lessee of an existing home nursing care provider or home care provider, the licensing agency will notify and afford the public thirty (30) days to comment, when practicable, on such application.

2. The decision of the licensing agency will be rendered within ninety (90) days from acceptance of the application.

3. The decision of the licensing agency shall be based upon the findings and recommendations of the Health Services Council unless the licensing agency shall afford written justification for variance therefrom.

4. All applications reviewed by the licensing agency and all written materials pertinent to licensing agency review, including minutes of all Health Services Council meetings, shall be accessible to the public upon request.

D. Except as otherwise provided in R.I. Gen. Laws Chapter 23-17 , a review by the Health Services Council on an application for changes in the owner, operator, or lessee of a licensed home nursing care provider or home care provider may not be made subject to any criterion unless the criterion directly relates to the statutory purpose expressed in R.I. Gen. Laws § 23-17-3. In conducting reviews of such an application the Health Services Council shall specifically consider and it shall be the applicant's burden of proof to demonstrate:

1. The character, commitment, competence, and standing in the community of the proposed owners, operators or directors of the home nursing care provider or home care provider, including but not limited to the following:

   a. In cases where the proposed owners, operators, or directors of the health care facility currently own, operate, or direct a health care facility, or in the past five years owned, operated or directed a health care facility, whether within or outside Rhode Island, the demonstrated commitment and record of that (those) person(s):

      (1) In providing safe and adequate treatment to the individuals receiving the health care facility's services;

      (2) In encouraging, promoting and effecting quality improvement in all aspects of health care facility services; and

   b. In providing appropriate access to health care facility services;

2. A complete disclosure of all individuals and entities comprising the applicant; and

3. The applicant's proposed and demonstrated financial commitment to the health care facility.

4. Any other factors deemed relevant by the Health Services Council and the Director.

E. The extent to which the facility will provide or will continue, without material effect on its viability at the time of change of owner, operator, or lessee, to provide safe and adequate treatment for individuals receiving the home nursing care provider or home care provider's services, including but not limited to the following:

1. The immediate and long term financial feasibility of the proposed financing plan;

a. The proposed amount and sources of owner's equity to be provided by the applicant;

b. The proposed financial plan for operating and capital expenses and income for the period immediately prior to, during and after the implementation of the change in owner, operator or lessee of the health care facility;

c. The relative availability of funds for capital and operating needs;

d. The applicant's demonstrated financial capability; and

e. Any other factors deemed relevant by the Health Services Council or the Director.

F. The extent to which the facility will provide or will continue to provide safe and adequate treatment for individuals receiving the home nursing care provider or home care provider's services and the extent to which the facility will encourage quality improvement in all aspects of the operation of the health care facility, including but not limited to the following:

1. The credibility and demonstrated or potential effectiveness of the applicant's proposed quality assurance programs; and

2. Any other factors deemed relevant by the Health Services Council or the Director.

G. The extent to which the facility will provide or will continue to provide appropriate access with respect to traditionally underserved populations, including but not limited to the following:

1. In cases where the proposed owners, operators, or directors of the health care facility currently own, operate, or direct a health care facility, or in the past five years owned, operated, or directed a health care facility, both within and outside of Rhode Island, the demonstrated record of that person(s) with respect to access of traditionally underserved populations to its health care facilities;

    a. The proposed immediate and long term plans of the applicant to ensure adequate and appropriate access to the programs and health care services to be provided by the health care facility; and

    b. Any other factors deemed relevant by the Health Services Council or the Director.

H. In consideration of the proposed continuation or termination of emergency, primary care and/or other core health care services by the facility:

    1. The effect(s) of such continuation or termination on the provision of access to safe and adequate treatment of individuals, including but not limited traditionally underserved populations.

    2. And in cases where the application involves a merger, consolidation or otherwise legal affiliation of two (2) or more health care facilities, the proposed immediate and long term plans of such health care facilities with respect to the health care programs to be offered and health care services to be provided by such health care facilities as a result of the merger, consolidation or otherwise legal affiliation.

17.4.3 Application, Issuance and Renewal of License

A. Application for a license to conduct, maintain or operate a home nursing care provider or home care provider shall be made to the licensing agency upon forms provided by it, and shall contain such information as the licensing agency reasonably requires, including but not limited to, evidence of ability to comply with the provisions of R.I. Gen. Laws Chapter 23-17 and this Part.

    1. Each application shall be accompanied by a non-returnable, non-refundable application fee, made payable to the Rhode Island General Treasurer, in the amount specified in the rules and regulations pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health (Part 10-05-2 of this Title). No additional licensure fee shall be charged when a home nursing care provider or home care provider changes location during any calendar year for which an annual license fee has already been paid for that home nursing care provider or home care provider.

2. Each home nursing care or home care provider that maintains a branch office shall indicate on the application the location of the central office as well as the location(s) of the branch office(s).

B. A notarized listing of names and addresses of direct and indirect owners whether individual, partnership, or corporation with percentages of ownership designated shall be provided with the application for licensure and shall be updated annually. The list shall include each owner (in whole or in part) of any mortgage, deed or trust, note or other obligation secured (in whole or in part) by the home nursing care provider or home care provider or any of the property or assets of the home nursing care provider or home care provider.

1. This list shall also include all officers, directors and other persons of any subsidiary corporation owning stock, if the home nursing care provider or home care provider is organized as a corporation and all partners if the home nursing care provider or home care provider is organized as a partnership.

C. Upon receipt of an application for a home nursing care provider license or a home care provider license, the licensing agency shall issue the applicable license or renewal thereof for a period of no more than one (1) year, if the applicant meets the requirements of R.I. Gen. Laws Chapter 23-17 and these Regulations.

1. Home care provider licenses are exempt from the requirements of § 17.8 of this Part.

D. The license issued, unless sooner suspended or revoked, shall expire by limitation on the thirty-first (31st) day of December following its issuance and may be renewed from year to year subject to inspection and approval by the licensing agency.

1. All renewal applications shall be accompanied by a non-returnable, non-refundable renewal fee, made payable to the Rhode Island General Treasurer, in the amount specified in the rules and regulations pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health (Part 10-05-2 of this Title).

E. Each license shall be issued only for the premises and persons named in the application and shall not be transferable or assignable except with the written approval of the licensing agency. Home nursing care providers and home care providers operating under a single license may establish branch offices under that same single license and such license shall be maintained and posted in the central office.

F. A license issued pursuant to these Regulations shall be the property of the state and loaned to such licensee and it shall be kept posted in a conspicuous place on the licensed premises.

G. Subsequent to reviews conducted under §§ 17.4.2(C) and (D) of this Part, the issuance of a license by the licensing agency may be made subject to any condition, provided that no condition may be made unless it directly relates to the statutory purpose expressed in R.I. Gen. Laws § 23-17-3, or to the review criteria set forth in § 17.4.2(C) of this Part. This shall not limit the authority of the licensing agency to require correction of condition or defects which existed prior to the proposed change of owner, operator, or lessee and of which notice had been given to the facility by the licensing agency.

H. Each home nursing care provider shall meet the statewide community standard for the provision of uncompensated care, established by § 17.4.4 of this Part, as a condition of initial and continued licensure.

17.4.4 Statewide Standard for the Provision of Uncompensated Care

The statewide community standard for uncompensated care shall be one percent (1%) of net patient revenue earned on an annual basis. Uncompensated care shall be cost adjusted by applying a ratio of costs to charges from the licensee's Medicare Cost Report. Licensees not filing Medicare Cost Reports shall submit an audited financial report or such other report as deemed acceptable to the Director.

17.4.5 Change of Ownership, Operation and/or Location

A. When a change of ownership or operation or location of a home nursing care provider or home care provider or when discontinuation or addition of a service(s) is contemplated, the licensing agency shall be notified in writing.

B. Thirty (30) days prior to voluntary cessation of any facility license, the Department of Health shall be notified and provided with a plan for orderly closure; notification and transfer of patients; transfer, storage, or proper disposal of medical records; and notification of the public.

C. A license shall immediately become void and shall be returned to the licensing agency when a home nursing care provider or home care provider discontinues services or when any changes in ownership occur in accordance with these Regulations and R.I. Gen. Laws § 23-17-6.

1. When there is a change in ownership or in the operation or control of the home nursing care provider or home care provider, the licensing agency reserves the right to extend the expiration date of such license, allowing the home nursing care provider or home care provider to operate under the same license which applied to the prior licensee for such time as shall be required for the processing of a new application or reassignment of patients, not to exceed six (6) weeks.

17.4.6 Inspections

A. The licensing agency shall make, or cause to be made, such inspections and investigations, including medical records, as deemed necessary in accordance with R.I. Gen. Laws § 23-17-10 and this Part.

B. Refusal to permit inspections shall constitute a valid ground for license denial, suspension or revocation.

C. Every home nursing care provider or home care provider shall be given notice by the licensing agency of all deficiencies reported as a result of an inspection or investigation.

17.4.7 Deficiencies and Plans of Correction

A. The licensing agency shall notify the governing body or other legal authority of a facility of violations of individual standards through a notice of deficiencies which shall be forwarded to the facility within fifteen (15) days of inspection of the facility unless the Director determines that immediate action is necessary to protect the health, welfare, or safety of the public or any member thereof through the issuance of an immediate compliance order in accordance with R.I. Gen. Laws § 23-1-21.

B. A facility which received a notice of deficiencies must submit a plan of correction to the licensing agency within fifteen (15) days of the date of the notice of deficiencies. The plan of correction shall detail any requests for variances as well as document the reasons therefore.

C. The licensing agency will be required to approve or reject the plan of correction submitted by a facility in accordance with § 17.4.7(B) of this Part within fifteen (15) days of receipt of the plan of correction.

D. If the licensing agency rejects the plan of correction, or if the facility does not provide a plan of correction within the fifteen (15) day period stipulated in § 17.4.7(C) of this Part, or if a facility whose plan of correction has been approved by the licensing agency fails to execute its plan within a reasonable time, the licensing agency may invoke the sanctions enumerated in § 17.4.8 of this Part. If the facility is aggrieved by the sanctions of the licensing agency, the facility may appeal the decision and request a hearing in accordance with R.I. Gen. Laws Chapter 42-35.

17.4.8 Denial, Suspension, Revocation of License or Curtailment of Activities

A. The licensing agency is authorized to deny, suspend or revoke the license or curtail activities of any home nursing care provider or home care provider which:

1. Has failed to comply with the rules and regulations pertaining to the licensing of a home nursing care provider or home care provider; or

2. Has failed to comply with the provisions of R.I. Gen. Laws Chapter 23-17.

B. Reports of deficiencies shall be maintained on file in the licensing agency and shall be considered by the licensing agency in rendering determinations to deny, suspend or revoke the license or to curtail activities of a home nursing care provider or home care provider.

C. Whenever an action shall be proposed to deny, suspend or revoke a home nursing care provider or home care provider license, or curtail its activities, the licensing agency shall notify the home nursing care provider or home care provider by certified mail, setting forth reasons for the proposed action, and the applicant or licensee shall be given an opportunity for a prompt and fair hearing in accordance with R.I. Gen. Laws § 23-17-8 and R.I. Gen. Laws § 42-35-9, and in accordance with the provisions of § 17.9.2 of this Part. However, if the licensing agency finds that public health, safety or welfare of patients requires emergency action and incorporates a finding to that effect in its order, the licensing agency may order summary suspension of license or curtailment of activities pending proceedings for revocation or other action in accordance with R.I. Gen. Laws §§ 42-35-14 (c) and 23-1-21.

D. The appropriate state and federal agencies shall be notified of any action taken by the licensing agency pertaining to either denial, suspension, or revocation of license, or curtailment of activities.

17.5 ORGANIZATION AND MANAGEMENT

17.5.1 Governing Body

A. Each home nursing care provider or home care provider shall have an organized governing body or equivalent legal authority ultimately responsible for:

1. The management, fiscal affairs and operation of the home nursing care provider or home care provider;

2. The assurance of quality care and services; and

3. Compliance with all federal, state and local laws and regulations pertaining to a home nursing care provider or home care provider and these Regulations.

B. The governing body, or equivalent legal authority, shall provide appropriate personnel, physical resources and equipment to facilitate the delivery of prescribed services and shall furthermore:

1. Appoint an administrator and/or director of nursing services in accordance with the provisions of § 17.5.2(O) of this Part;

2. Identify the range of services to be provided which must include no less than those services required in § 17.7.2(B) and (D) of this Part as applicable;

3. Define the geographic areas to be served; and

4. Carry out such other functions as may be relevant to the organization and operation of the home nursing care provider or home care provider.

C. The governing body, or equivalent legal authority, shall adopt and maintain by-laws or acceptable equivalent which defines responsibilities for the operation and performance of the organization, and shall identify purposes and means of fulfilling same. In addition, the governing body or equivalent legal authority, shall establish administrative policies pertaining to no less than the following:

1. Responsibilities of the administrator and/or director of nursing services;

2. Acquiring and maintaining employee bonding insurance (theft and damage) (a minimum amount of ten thousand dollars ($10,000.00) per loss) and liability insurance (a minimum amount of five-hundred thousand dollars ($500,000.00) per occurrence);

3. The modalities of services to be provided;

4. Circumstances under which definitive care cannot be provided and procedures for referral;

5. Linkages and referrals with other health care facilities, which shall include a mechanism for recording, transmitting and receiving information essential to the continuity of patient care. Such information shall contain no less than the following:

a. Patient identification data such as: name, address, age, gender, name of next-of- kin, health insurance coverage, etc.

b. Diagnosis and prognosis, medical status of patient, brief description of current illness, plan of care, including such information as medications, treatments, dietary needs, baseline laboratory data;

c. Functional status;

d. Therapeutic services such as: physical therapy, infusion therapy, occupational therapy, or speech therapy;

e. Psychosocial needs; and

f. Such other information pertinent to ensure continuity of patient care.

6. Reports of patient's condition and transmission thereof to the patient's attending physician;

7. Policies and procedures regarding persons employed by the facility; Said policies shall include, but not be limited to, the following:

    a. Compliance with health screening and inservice education requirements of § 17.5.3 of this Part;

    b. Timely completion of the bureau of criminal identification (BCI) check;

    c. Timely judgment regarding continued employment of an employee upon whom disqualifying information has been found (see §§ 17.5.3(M) and (N) of this Part).

8. Such other matters as may be relevant to the organization and operation of the home nursing care provider or home care provider.

D. The governing body or other legal authority shall organize services to ensure an integrated continuum of patient care. An organizational chart with written description of the organization, authorities, responsibilities, accountability, and relationships shall be maintained which shall include but not be limited to:

1. A description of each service offered;

2. Policies and procedures pertaining to each service;

3. A description of the system for the maintenance of the patient's clinical record; and

4. Standards of clinical practice.

E. Quality Improvement

1. The governing body shall ensure that there is an effective, ongoing, agency-wide quality improvement program to evaluate the provision of patient care. Further, the home nursing care provider or home care provider shall have written policies and procedures establishing a mechanism for the annual evaluation of professional standards of practice and administrative practices, conducted by professional personnel, including home nursing care provider or home care provider staff.

    a. Such evaluation shall assess the extent to which the home nursing care provider's or home care provider's programs and services are appropriate, adequate, effective and efficient based on data such as: number of patients on services, patient visits, reasons for discharge, diagnoses, sources of referral, patients denied services, community needs, staff days for each service offered and such other criteria as may be deemed appropriate.

2. The organized agency-wide quality improvement program shall be ongoing and shall have a written plan of implementation. The written quality improvement plan shall include at least the following:

   a. Program objectives;

   b. Organization(s) involved;

   c. Oversight responsibility (e.g., reports to the governing body);

   d. Home nursing care provider-wide or home care provider-wide scope;

   e. Program administration and coordination;

   f. Involvement of all patient care disciplines/services;

   g. Methodology for monitoring and evaluating quality of care;

   h. Priority setting and problem resolution;

   i. Determination of the effectiveness of action(s) taken;

   j. Documentation of the quality improvement plan review.

3. All patient care services, including services rendered by a contractor, shall be evaluated.

4. The home nursing care provider or home care provider shall take and document appropriate remedial action to address problems identified through the quality improvement program. The outcome(s) of the remedial action shall be documented and submitted to the governing body for their consideration.

5. The provisions of § 17.5.1(E)(2) of this Part shall be deemed to have been met if the agency has met similar requirements of a national accrediting body, as approved by the Director.

F. Uniform Reporting System

1. Each home nursing care provider or home care provider shall establish and maintain records and data in such a manner as to make uniform a system of periodic reporting. The manner in which the requirements of these Regulations may be met shall be prescribed from time to time in directives promulgated by the Director.

2. Each home nursing care provider or home care provider shall report to the licensing agency detailed statistical data pertaining to its operation and

services. Such reports and data shall be made at such intervals and by such dates as determined by the Director.

3. The licensing agency is authorized to make the reported data available to any state or federal agency concerned with or exercising jurisdiction over the home nursing care provider or home care provider.

4. The directives promulgated by the Director pursuant to these Regulations shall be sent to each home nursing care provider or home care provider to which they apply. Such directives shall prescribe the form and manner in which the statistical data required shall be furnished to the licensing agency.

G. Disaster Planning

1. The plan and procedures shall be developed with the assistance of qualified safety, emergency management, and/or other appropriate experts.

2. Each home nursing care provider or home care provider shall develop back-up or contingency plans to address possible internal systems and/or equipment failures.

H. Pending and Actual Labor Disputes/Actions

1. Health care facilities shall provide the licensing agency with prompt notice of pending and actual labor disputes/actions which would impact delivery of patient care services including, but not limited to, strikes, walk-outs, and strike notices. Health care facilities shall provide a plan, acceptable to the Director, for continued operation of the facility, suspension of operations, or closure in the event of such actual or potential labor dispute/action.

I. Latex

1. Any home nursing care provider or home care provider that utilizes latex gloves shall do so in accordance with the provisions of the rules and regulations pertaining to the Use of Latex Gloves by Health Care Workers, In Licensed Health Care Facilities, and by Other Persons, Firms, or Corporations Licensed or Registered by the Department promulgated by the Department of Health (Part 20-15-3 of this Title).

J. Reporting of Resident Abuse, Mistreatment, or Neglect

1. Duty to Report resident abuse, mistreatment, or neglect is pursuant to R.I. Gen. Laws Chapter 23-17.8-2. The report shall be on forms provided by the licensing Agency and shall contain information as outlined in R.I. Gen. Laws § 23-17.8-2.

17.5.2 Service Accessibility

A. Accessibility to agency: Each home nursing care provider or home care provider shall establish a mechanism to enable patients to make telephone contact with responsible staff of the home nursing care provider or home care provider on a twenty-four (24) hour basis, seven (7) days a week.

B. Medical supplies and equipment: Each home nursing care provider or home care provider shall assist patients in arranging for the procurement of medical supplies and equipment as may be prescribed in the plan of care.

C. Written Agreements

1. There shall be written agreements for the provision of service(s) not provided directly by the home nursing care provider or home care provider which clearly delineate the responsibilities of the parties involved and shall include no less than the following provisions:

a. Designation of service(s) to be provided which must be within the scope and limitations set forth in the plan of care and which must not be altered in type, amount, frequency, or duration (except in case of adverse reaction) by the individual or home nursing care provider or home care provider;

b. The responsibility of the licensed home nursing care provider or home care provider for the provision of services to the patient;

c. Assurance of compliance with the patient care policies of the licensed home nursing care provider or home care provider;

d. Establishment of procedures for and frequency of patient care assessment and attendance at case conferences;

e. Mechanism for submission of clinical progress notes on patient care;

f. Documented evidence that personnel and services under contract meet the requirements specified in these Regulations for home nursing care provider or home care provider personnel and services, including licensure, health screenings, and criminal background checks. In instances where the contracted services are provided by another Department of Health Division of Facilities Regulation licensee, said license shall suffice to meet the requirements of § 17.5.2(C) of this Part.

g. Reimbursement mechanism, charges and terms for renewal or termination of the agreement; and

h. Such other provisions as may be mutually agreed upon.

D. Scope of Services

1. Each home nursing care/home care provider shall provide either directly, or by written contractual agreement with another Department-licensed agency, homemaker, nursing assistant services or other therapeutic service(s) (e.g., physical/occupational therapy).

2. Additional health services or related services may be provided by agencies as may be deemed appropriate to meet community needs in a manner consistent with professionally-recognized standards of practice and all applicable current laws and regulations.

17.5.3 Personnel

A. Each home nursing care provider or home care provider shall employ a sufficient number of qualified personnel to provide effective patient care and other related services.

B. A job description for each classification of position shall be established, clearly delineating qualifications, duties, authority and responsibilities inherent in each position.

C. Written personnel policies supporting sound patient care and personnel practices shall be made available to all full-time or part-time personnel and shall include provisions for:

D. Annual evaluation of employee performance that is reviewed with and signed by the employee within forty-five (45) days of the evaluation; and

E. Such other matters as deemed appropriate.

F. An inservice educational program shall be conducted on an ongoing basis, which shall include an orientation program for staff personnel employed by the home nursing care provider or home care provider providing direct care and a continuing program for the development and improvement of skills of staff to ensure the delivery of quality home care services. The inservice program shall include recognition and reporting of abuse, neglect, mistreatment, and exploitation.

G. A mechanism to establish an audit trail of employees shall be implemented and shall include, at a minimum, for each employee:

1. Date of employment by the home nursing care provider or home care provider agency; and

2. Date(s), name(s), and address(es) of each assignment.

H. For every person employed by the home nursing care provider or home care provider who is licensed, certified, or registered by the Department, a mechanism shall be in place to electronically verify such licensure via the Department's licensure database.

I. Personnel files shall be maintained for each employee and shall be available at all times for inspection by the licensing agency. Such files shall include no less than the following documentation:

1. A certified copy of birth certificate or copy of the U.S. Immigration and Naturalization Service Employment Eligibility Verification form ("I-9"); or immigration papers or resident alien card;

2. Information pertaining to qualifications for employment;

3. Records of completion of required training and educational programs;

4. Evidence of current licensure or certification as may be required by law;

5. Resume of previous employment;

6. Records of required health examination which shall be kept confidential and in accordance with provisions of § 17.5.3(M) of this Part;

7. Documentation of complaints and follow-up;

8. Findings of a criminal records check, if employed after July 26, 1993;

9. Employee orientation, evaluation (annual) and documentation of in-service education; and

10. Such other matters as may be relevant to the organization and operation of the agency.

J. Supervision of Homemakers

1. All homemaker services performed by a homemaker shall be in accordance with the provisions of R.I. Gen. Laws Chapter 23-17, and these Regulations.

2. Homemaker services shall be rendered in accordance with a plan of care and shall be supervised by a professional (registered) nurse, licensed in Rhode Island, or by an individual with a bachelor's degree in social work, home economics, gerontology or other related field of study, and who shall be responsible for no less than the following:

a. Conducting the initial in-home assessment and assessments no less than every three (3) months thereafter or more frequently as the condition of the patient/client may require;

b. Monitoring the performance of the homemakers and maintaining appropriate clinical records;

c. Coordinating management of services (inter and intra-agency);

d. Assigning only delegable duties in accordance with § 17.5.3(L) of this Part;

e. Maintaining a record for each patient/client with appropriate documentation of services rendered which is signed by the homemaker rendering services;

f. Such other functions and activities as may be deemed necessary and appropriate.

K. Training Program for Homemakers

1. Homemakers shall be required to have successfully completed a basic training program of twenty (20) hours of classroom instruction, and with no less than five (5) hours of practical experience in addition to the required classroom instruction. The course of instruction shall be designed to provide skill in all the duties listed in § 17.5.3(L) of this Part and to provide homemaker skills, information, and an orientation to basic human needs. The course of instruction curriculum must include, but is not limited to:

a. Orientation to homemaker agency, including policies and procedures, ethical responsibilities/accountability, confidentiality, and the function of the homemaker as a team member;

b. Understanding basic human needs, including the needs of children/aged people, physically disabled people, people with terminal illness, and people with mental illness/dementia;

c. Infection control, including hand washing, cross contamination, and universal precautions appropriate to the homemaker;

d. Emergency procedures; and

e. Care of the home, including planning and serving meals, shopping, food preparation, basic nutrition, cleanliness/general housekeeping, accident prevention, care of food preparation areas/dishes, laundry and ironing, making unoccupied beds, and disposal of trash/medical waste.

2. Upon completion of the homemaker training program, each homemaker must satisfactorily pass the final examination of the training program in order to be eligible to function as a homemaker.

L. Duties of Homemakers

1. A homemaker who has satisfactorily completed a training program approved by the Director, as described in § 17.5.3(K) of this Part, may perform the following duties under an established plan of care and under the supervision of a qualified person in accordance with § 17.5.3(J) of this Part:

   a. Change bed linens (unoccupied);

   b. Grocery shopping;

   c. General housekeeping (washing dishes, cleaning kitchen, bathroom, patient's/client's room);

   d. Laundry and ironing;

   e. Meal preparation;

   f. Shopping, errand-running;

   g. Recording services rendered.

2. Notwithstanding the provisions of § 17.5.3(L)(1) of this Part, additional duties may be assigned to homemakers provided such duties do not include the duties of a nursing assistant, as listed in the "Rules and Regulations Pertaining to Rhode Island Certificates of Registration for Nursing Assistants, Medication Aides, and the Approval of Nursing Assistant and Medication Aide Training Programs."

   a. Such additional duties must be clearly delineated in agency policies and procedures, but may not be in conflict with other state regulations.

3. A health care facility shall require all persons, including students, who examine, observe, or treat a patient or resident of the facility to wear a photo identification badge which states, in a reasonably legible manner:

   a. The first name;

   b. Licensure registration status, if any;

   c. Fluency in languages other than English, if any; and

   d. Staff position of that person.

4. A home nursing care provider or home care provider shall be considered for all purposes an employer and those persons that it supplies on a temporary basis shall be considered employees and not independent contractors and home nursing care providers or home care providers shall be subject to all state and federal laws which govern employer/employee relationships.

M. Health Screening

1. Upon hire and prior to delivering services, a pre-employment health screening shall be required for each individual who has or may have direct contact with a patient of the home care provider/home care nursing provider. Such health screening shall be conducted in accordance with the rules and regulations pertaining to Immunization, Testing, and Health Screening for Health Care Workers (Part 20-15-7 of this Title) promulgated by the Department of Health.

N. Criminal Records Check

1. Criminal records checks shall be in accordance with R.I. Gen. Laws § 23-17-34.

O. Administrator and/or Director of Nursing Services

1. A full-time administrator as defined in these Regulations shall be appointed by and be responsible to the governing body or other legal authority for no less than the following:

a. The management and operation of the agency;

b. The implementation of policies, statutory and regulatory provisions;

c. Acting as liaison between the governing body and the professional and paraprofessional staff and the community;

d. The preparation and implementation of an effective budgeting, accounting and reporting system;

e. The establishment of standards of professional practice developed in cooperation with the governing board and staff;

f. The establishment of policies and procedures governing the range of health care services provided by the home nursing care provider or home care provider;

g. The establishment of a quality improvement program which includes a review mechanism for patient care management;

h. The preparation of an annual report;

i. The employment of qualified professional and paraprofessional staff; and

j. For such other related functions as may be delegated by the governing body or other legal authority.

2. In the event that a non-nurse is appointed administrator of the home nursing care provider or home care provider, the nursing service shall be under the direction of a registered nurse who is licensed in Rhode Island and who shall be responsible to the administrator for the management of professional services, the standards of practice, and other related professional aspects of patient care services.

17.6 Patient Care Management

17.6.1 Rights of Patients

A. Each patient/client of a home nursing care provider or home care provider has the right to be informed of his or her rights under R.I. Gen. Laws Chapter 23-17-19.1 and the home nursing care provider or home care provider must protect and promote the exercise of these rights.

B. The home nursing care provider or home care provider must provide the patient/client with a written notice of the patient/client rights in § 17.6.1(E) of this Part in advance of furnishing care to the patient/client or during the initial evaluation visit before the initiation of treatment.

C. A copy of the written notice of rights signed by the patient/client will be maintained in the patient/client record by the home nursing care provider or home care provider and in the patient/client's home. The home nursing care provider or home care provider must maintain documentation showing that it has complied with the requirements of this section.

D. The provisions of § 17.6 of this Part shall not apply to nursing services or home health services conducted by and for those who rely exclusively upon spiritual means through prayer alone in accordance with the creed or tenets of a recognized church or religious denomination.

E. In addition to the rights stated in R.I. Gen. Laws § 23-17-19.1:

1. No charge shall be made for furnishing a health record or part thereof to a patient, his/her attorney or authorized representative if the record or part thereof is necessary for the purpose of supporting an appeal under any provision of the Social Security Act (42 U.S.C. § 301 et seq.) and the request is accompanied by documentation of the appeal. A provider shall

furnish a health record requested pursuant to this section within thirty (30) days of the request.

17.6.2 Confidentiality

Disclosure of any health care information relating to individuals shall be subject to the provisions of the "Confidentiality of Health Care Communication and Information Act", R.I. Gen. Laws Chapter 5-37.3, and other relevant statutory and federal requirements.

17.6.3 Admission and Discharge Policies

A. Providers shall establish policies pertaining to eligibility for admission to and discharge from home nursing care provider or home care provider services. Such policies shall be based on the following criteria:

1. Pre-admission assessment of patient care needs;

2. Reasonable expectations of the home nursing care provider's or home care provider's capability to respond to the medical and nursing needs of the patient;

3. Plan of care;

4. Constraints imposed by limitation of services, family conditions;

5. Community or other resources to ensure continuity of patient care; and

6. Such other criteria as may be deemed appropriate.

17.6.4 Clinical Records

A. Accurate and complete clinical records maintained in accordance with accepted professional standards shall be kept on each patient and filed in an accessible location within the home nursing care provider or home care provider. Such records shall contain no less than the following information:

1. Identifying data (name, address, date of birth, gender, date of admission or readmission);

2. Sources of patient referral;

3. Name of physician (including address and telephone number);

4. Original plan of care for services provided;

   a. personal care objectives;

   b. homemaker objectives, as appropriate;

5. Medical diagnosis and nursing assessment, therapeutic goals, prognosis and all conditions relevant to the plan of care, including any known allergies and reactions,

6. surgical procedures, surgical complications, infections, prior diagnoses, presence of pressure ulcers, incontinence, disabilities;

7. Documentation of each patient contact;

8. Changes in and reviews of the patient's plan of care, signed by responsible professional;

9. Documentation of an advance directive (if any) and a copy of the advance directive, if provided to the facility by the patient; and

10. Discharge summaries.

B. Home nursing care provider or home care provider personnel involved in the care of patients shall participate, to the extent possible, in developing care plans. When practical, designated home nursing care provider or home care provider personnel shall complete a "Continuity of Care" form as approved by the Director for each patient who is discharged to another health care facility, such as a hospital or nursing facility, or other facility licensed under the provisions of R.I. Gen. Laws Chapter 23-17. Said form shall be provided to the receiving facility, agency, or provider prior to, upon transfer, or discharge of the patient. (See the Department's website for the approved form: health.ri.gov).

C. Records shall be maintained by the home nursing care provider or home care provider for a period of at least five (5) years following the date of discharge and shall be safeguarded against loss or unauthorized use. This requirement shall also apply to computerized or electronic records.

1. Records shall be maintained by the home nursing care provider or home care provider for a minimum of five (5) years after a minor patient turns eighteen (18) years of age.

D. Each home nursing care provider or home care provider shall have written policies and procedures to govern the use and removal of records and determine the conditions for release of information in accordance with statutory provisions pertaining to confidentiality.

17.6.5 Nursing Assistant Services

A. Each home nursing care provider or home care provider which chooses to provide home nursing care and home care as provided in these Regulations shall be subject to the same training requirements for nursing assistants and the duties of the individuals shall be the same as those prescribed in the "Rules and

Regulations for the Registration of Nursing Assistants, Medication Aides, and the Approval of Nursing Assistant and Medication Aide Training Programs."

B. Supervision of Nursing Assistants

1. Supervision of nursing assistants shall be directed to the management of patients'/clients' care and services, the performance of duties, and shall be available at all times during the established hours of operation of the home nursing care provider or home care provider and at such other times as they are providing services to patients/clients.

2. Supervision of nursing assistants as employees of a home nursing care provider or home care provider:

3. Nursing assistant services shall be:

   a. Provided in accordance with a plan of care; and

   b. Monitored/supervised no less than once every three (3) months by a professional (registered) nurse or other appropriate health care professional who is licensed in Rhode Island; and

   c. Provided in accordance with the "Rules and Regulations for the Registration of Nursing Assistants, Medication Aides, and the Approval of Nursing Assistant and Medication Aide Training Programs."

   d. Such supervision shall include the following duties:

      (1) Conducting the initial in-home assessment prior to commencement of service, unless documented extraordinary circumstances prevent such timing. In these cases the initial in-home assessment must be conducted within forty-eight (48) hours. Subsequent assessments and direct supervision of the nursing assistant (at least one supervisory session) must be conducted no less than every three (3) months thereafter or more frequently as the condition of the patient/client may require;

      (2) Involving other professional disciplines where personal care is provided, as may be deemed necessary to ensure the provision of quality care;

      (3) Developing, reviewing and revising the plan of care, as the condition of the patient/client may require but no less than once every three (3) months;

(4) Assigning only delegable duties as set forth in the “Rules and Regulations for the Registration of Nursing Assistants, Medication Aides, and the Approval of Nursing Assistant and Medication Aide Training Programs” for nursing assistants;

(5) On-site monitoring the performance of nursing assistants no less than once every three (3) months and maintaining appropriate records of such monitoring;

(6) Coordinating the management of services (inter- and intra-agency);

(7) Monitoring the clinical record for each patient/client which includes appropriate recording of the plan of care, services rendered, and which is signed by the person rendering services; and

(8) Such other functions and activities as may be deemed necessary and appropriate.

17.6.6 Supervision of Therapeutic Services

Therapeutic services may include, but are not limited to, speech pathology/audiology, physical therapy, occupational therapy and respiratory care. Supervision of therapeutic services shall be in accordance with applicable rules and regulations for licensing of said therapists.

17.6.7 Reporting of Communicable Diseases

Each facility shall report promptly to the Rhode Island Department of Health, Division of Disease Control, cases of communicable diseases designated as "reportable diseases" by the Director of Health, when such cases are diagnosed in accordance with the most current “Rules and Regulations Pertaining to Reporting of Infectious, Environmental and Occupational Diseases.”

17.7 Physical Plant

17.7.1 General Provisions

A. Each licensed home nursing care provider or home care provider shall maintain an office(s) located in Rhode Island with adequate space and equipment to accommodate staff personnel to carry out their professional and administrative responsibilities in an efficient manner within a safe environment.

B. Adequate space shall be provided for the storage and maintenance of equipment, supplies and records necessary for patient care services and for the operation of the home nursing care provider or home care provider.

C. All equipment and furnishings shall be maintained in good condition, properly functioning and replaced as necessary.

D. Each home nursing care provider or home care provider shall maintain an effective telephone communication system accessible to patients and personnel on a twenty-four (24) hour basis, seven (7) days a week, in accordance with § 17.5.2(A) of this Part.

E. Medical Waste Disposal

1. In accordance with the Medical Waste Regulations, 250-RICR-140-15-1, medical waste generated by individuals on the premises of a single-family home or single-family dwelling unit or by members of households residing in single and multiple residences, hotels, and motels which serve as a residence for individuals, provided the dwelling is not serving as a commercial or professional office where individuals who are not members of the family residing at such dwelling are receiving medical care by a health care professional is specifically excluded from the definition of regulated medical waste and the requirements of the aforementioned regulations. Medical waste generated by health care providers in private homes where they provide medical services to individuals residing in said homes is also exempt from the requirements of the Medical Waste Regulations, 250-RICR-140-15-1, promulgated by the Rhode Island Department of Environmental Management.

17.8 Additional Requirements – Home Nursing Care Providers

In addition to meeting the General Requirements as set forth in §§ 17.1 through 17.7.1 of this Part, home nursing care providers shall meet the additional requirements of § 17.8.2 of this Part.

17.8.2 Governing Body & Management Professional Advisory Committee

A. An advisory group of professional personnel ("Professional Advisory Committee") shall be established by the governing body or other legal authority which shall include at least:

1. One (1) physician and a registered nurse; and

2. A representative of each therapeutic service offered by the home nursing care provider or home care provider, which may also include appropriate representation from other professional disciplines.

3. The administrator of the home nursing care provider or home care provider shall be ex- officio member of the committee.

4. At least one (1) member shall neither be an owner nor an employee of the home nursing care provider or home care provider.

5. The Professional Advisory Committee shall meet at least twice (2) per year to advise the agency on professional issues and to establish and annually review the home nursing care provider's or home care provider's policies pertaining to:

    a. The scope of services offered;

    b. Admission and discharge policies;

    c. Plans of care;

    d. Clinical records;

    e. Personnel qualifications;

    f. Program evaluation; and

    g. Such other matter as may be deemed appropriate by the governing body or other legal authority.

6. The physician member of the Professional Advisory Committee shall attend at least one (1) meeting per year and show evidence of participation (e.g., review of agenda/minutes) in any other Professional Advisory Committee meetings.

B. Scope of Services

1. Each home nursing care provider shall provide direct nursing services in the home, or by contractual agreement with another Department-licensed agency, delivered by a registered (RN) or licensed practical (LPN) nurse.

2. Each home nursing care provider may provide homemaker and nursing assistant services, either directly or by contractual agreement with another Department-licensed agency; and may provide other therapeutic service(s), to be provided either directly or by contractual agreement.

3. Additional health services or related services may be provided by a home nursing care provider as may be deemed appropriate to meet community needs in a manner consistent with acceptable standards of practice.

C. Medical Services

1. Patients admitted for medical services shall be under the care of a licensed physician responsible for the development of the plan of care.

    a. A care plan prescribed by the attending physician, if appropriate, shall contain no less than the following:

(1) Pertinent diagnosis, including mental status, level of consciousness, ability to communicate including language, speech and hearing;

(2) Types of services and equipment required, frequency of visits, prognosis, rehabilitative potential, functional limitations, activities permitted, nutritional requirements, medications and treatments, safety measures (if any), instructions for continuing care, referral or discharge; dates/times of any follow-up appointment(s), when known; and

2. The physician's orders for any services which shall specify the procedures and modalities to be used including the amount, frequency and duration of therapy and/or care, including therapeutic services, such as physical therapy, occupational therapy, speech therapy, clinical social work, nutritional assessment, audiology, IV therapy, PEG feeding, wound/dressing, surgical drains, central line, oxygen, diet, all medications prescribed.

3. The plan of care shall not be modified without consent of the attending physician and shall furthermore be reviewed by the attending physician and home nursing care provider or home care provider staff as often as the severity of the patient's condition requires but no less than once every sixty (60) days beginning with the start of care date.

4. Direct Nursing Services Direct nursing services shall be provided by registered and/or practical nurses duly licensed in Rhode Island and in accordance with the written plan of care, acceptable standards of nursing practice and the "Rules and Regulations for the Licensing of Nurses and Standards for the Approval of Basic Nursing Education Programs."

17.9 Variance Procedure, Practices and Procedures, and Severability

17.9.1 Variance Procedure

A. The licensing agency may grant a variance either upon its own motion or upon request of the applicant from the provisions of any rule or regulation in a specific case if it finds that a literal enforcement of such provision will result in unnecessary hardship to the applicant and that such variance will not be contrary to the public interest, public health and/or health and safety of patients.

B. A request for a variance shall be filed by an applicant in writing setting forth in detail the basis upon which the request is made.

1. Upon the filing of each request for variance with the licensing agency and within a reasonable time thereafter, the licensing agency shall notify the

applicant by certified mail of its approval, or in the case of a denial, a hearing date, time and place may be scheduled if the home nursing care provider or home care provider appeals the denial.

17.9.2 Rules Governing Practices and Procedures

All hearings and reviews required under the provisions of R.I. Gen. Laws Chapter 23-17 shall be held in accordance with the provisions of the rules and regulations regarding Practices and Procedures Before the Rhode Island Department of Health (Part 10-05-4 of this Title).

216-RICR-40-10-17

TITLE 216 - DEPARTMENT OF HEALTH

CHAPTER 40 - PROFESSIONAL LICENSING AND FACILITY REGULATION

SUBCHAPTER 10 - FACILITIES REGULATION

PART 17 - LICENSING HOME NURSING CARE PROVIDERS AND HOME CARE PROVIDERS (216-RICR-40-10-17)

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