
ILLINOIS

REGISTER



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DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

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

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
245.20	Amendment
245.25	Amendment
245.40	Amendment
245.55	Amendment
245.71	Amendment
245.210	Amendment
- 4) Statutory Authority: Implementing and authorized by the Home Health, Home Services, and Home Nursing Agency Licensing Act [210 ILCS 55].
- 5) Effective Date of Rules: May 31, 2022
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain an incorporations by reference? Yes
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in *Illinois Register*: 45 Ill. Reg. 16210; December 27, 2022
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between Proposal and Final Version: In response to comments, the Department amended the definition of "Health Care Professional" in Section 245.20 to include an Advanced Practice Registered Nurse or a Physician Assistant licensed under their respective Acts. The Department also changed the text in response to public comment to provide clarification of services that can be provided by home services workers and to remove references to "client-specific" as related to requirements of competency evaluations in subsections 245.40(c)(4)(A) through 245.40(c)(4)(D), 245.40(c)(4)(F), 245.40(c)(4)(G), 245.40(c)(4)(I), 245.40(c)(4)(J), 245.40(c)(4)(M), and 245.40(c)(4)(O); and in Section 245.71, inserted a new subsection (g) to clarify qualification and training requirements for staff training. And finally, in Section

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245.210(d)(2), the Department changed the word "able" to "unable" in response to public comment.

Additionally, the Department made all changes requested by JCAR, including various typographical, grammatical, and form changes.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking updates Part 245 in response to comments received during the First Notice period for amendments to implement the federal CARES Act, which were adopted at 45 Ill. Reg. 11077. Changes requested for Sections of Part 245 that were not open in the prior rulemaking are included in this rulemaking to clarify the CARES Act changes in Section 245.20 (Definitions) with regard to the definition of "health care professional" and in Section 245.55 (Vaccinations) replacing "physician" with "health care professional" for consistency. This rulemaking also includes updates regarding staff responsibilities for home services workers with regard to activities of daily living and required training and competency evaluations for skin care, ambulation, bathing, hair and nail care, positioning and transfer of clients, and respiratory care.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Department of Public Health
Attention: Tracey Trigillo, Rules Coordinator
Lincoln Plaza
524 South 2nd Street, 6th Floor
Springfield, IL 62701

(217)782-1159
dph.rules@illinois.gov

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

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER b: HOSPITALS AND AMBULATORY CARE FACILITIES

PART 245

HOME HEALTH, HOME SERVICES,
AND HOME NURSING AGENCY CODE

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245.20	Definitions
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- 245.140 Penalties and Fines
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SUBPART D: CLIENT/PATIENT SERVICES

- Section
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- 245.205 Services – Home Nursing Agencies
- 245.210 Services – Home Services Agencies
- 245.211 Services – Alzheimer's Disease and Related Dementias
- 245.212 Services – Home Nursing Placement Agency
- 245.214 Services – Home Services Placement Agency
- 245.220 Client Service Contracts – Home Nursing and Home Services Agencies
- 245.225 Client Service Contracts – Home Nursing Placement Agency and Home Services Placement Agency
- 245.240 Quality Improvement Program
- 245.250 Abuse, Neglect, and Financial Exploitation Prevention and Reporting

AUTHORITY: Implementing and authorized by the Home Health, Home Services, and Home Nursing Agency Licensing Act [210 ILCS 55].

SOURCE: Adopted at 2 Ill. Reg. 31, p. 77, effective August 2, 1978; emergency amendment at 3 Ill. Reg. 38, p. 314, effective September 7, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 40, p. 153, effective October 6, 1979; emergency amendment at 4 Ill. Reg. 18, p. 129, effective April 21, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 40, p. 56, effective September 23, 1980; emergency amendment at 6 Ill. Reg. 5855, effective April 28, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11006, effective August 30, 1982; amended at 7 Ill. Reg. 13665, effective October 4, 1983; codified at 8 Ill. Reg. 16829; amended at 9 Ill. Reg. 4836, effective April 1, 1985; amended at 14 Ill. Reg. 2382, effective February 15, 1990; amended at 15 Ill. Reg. 5376, effective May 1, 1991; amended at 18 Ill. Reg. 2414, effective January 22, 1994; emergency amendments at 20 Ill. Reg. 488, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 3273, effective February 15, 1996; amended at 20 Ill. Reg. 10033, effective July 15, 1996; amended at 22 Ill. Reg. 3948, effective February 13, 1998; amended at 22 Ill. Reg. 22050, effective December 10, 1998; amended at 23 Ill. Reg. 1028, effective January 15, 1999; amended at 24 Ill. Reg. 17213, effective November 1, 2000; amended at 25 Ill. Reg. 6379, effective May 1, 2001; amended at 26 Ill. Reg. 11241, effective July 15, 2002; amended at 28 Ill. Reg. 3487, effective February 9, 2004; amended at 28 Ill. Reg. 8094, effective May 26, 2004; amended at 29 Ill. Reg. 20003, effective November 28, 2005; amended at 31 Ill. Reg. 9453, effective June 25, 2007;

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amended at 32 Ill. Reg. 8949, effective June 5, 2008; amended at 34 Ill. Reg. 5711, effective April 5, 2010; amended at 39 Ill. Reg. 16406, effective December 10, 2015; amended at 43 Ill. Reg. 9134, effective August 12, 2019; emergency amendment at 44 Ill. Reg. 5929, effective March 25, 2020, for a maximum of 150 days; emergency expired August 21, 2020; emergency amendment at 44 Ill. Reg. 14328, effective August 24, 2020, for a maximum of 150 days; emergency rule expired January 20, 2021; emergency amendment at 45 Ill. Reg. 1710, effective January 21, 2021, for a maximum of 150 days; emergency expired June 19, 2021; emergency amendment at 45 Ill. Reg. 6335, effective May 3, 2021, for a maximum of 150 days; amended at 45 Ill. Reg. 11077, effective August 27, 2021; amended at 46 Ill. Reg. 10410, effective May 31, 2022.

SUBPART A: GENERAL PROVISIONS

Section 245.20 Definitions

Act – the Home Health, Home Services and Home Nursing Agency Licensing Act.

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

[Advanced Practice Registered Nurse or APRN – a person who is licensed as an advanced practice registered nurse under the Nurse Practice Act.](#)

Advocate – a person who represents the rights and interests of an individual as though they were the person's own, to realize the rights to which the individual is entitled, obtain needed services, and remove barriers to meeting the individual's needs.

Agency – a home health agency, home nursing agency, or home services agency, unless specifically stated otherwise. (Section 2.03a of the Act)

Agency Manager – the individual designated by the governing body or the entity legally responsible for the agency, who has overall responsibility for the organization and day-to-day operation of the home services or home nursing agency.

Applicant – a firm, partnership, or association, or any of their members, or, if the applicant is a corporation, any of its officers or directors, or the person designated

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to manage or supervise the agency.

Audiologist – a person who has received a license to practice audiology pursuant to the Illinois Speech-Language Pathology and Audiology Practice Act.

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

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

Client – an individual receiving services from a home nursing agency, a home services agency or a placement agency. This term includes the service recipient's advocate or designee.

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

Clinical Note – a dated, written notation or electronic entry by a member of the health team of a contact with a patient, containing a description of signs and symptoms, treatment and any drug given, the patient's reaction, and any changes in physical or emotional condition.

Clinical Record – an accurate account of services and care provided for each patient that is maintained by a home health or home nursing agency in accordance with accepted professional standards.

Companionship – services that provide fellowship, care and protection for a client who, because of advanced age or physical or mental infirmity, cannot care for his or her own needs. Services requested may include, but are not limited to: household work related to the care of the client, such as meal preparation, bed making, or laundry; shopping or errands; or other similar services.

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"Data Driven" – an agency uses quality indicator data, including patient care, and other relevant data, in the design of its program. The data collected is used to monitor the effectiveness and safety of services and quality of care and to identify opportunities and priorities for improvement. The frequency and detail of the data collection is approved by the governing body of the agency.

Department or IDPH – the Department of Public Health of the State of Illinois.
(Section 2.01 of the Act)

Director – the Director of Public Health of the State of Illinois, or his or her designee. (Section 2.02 of the Act)

Discharge Summary – the written report of services rendered, goals achieved, and final disposition at the time of discharge from service of a home health or home nursing agency.

Documentary Evidence – evidence that an agency covered under this Part maintains as documentation of its quality assessment and performance improvement program. Documentary evidence used to demonstrate the agency's operation to Centers for Medicare and Medicaid Services includes program scope, program data, program activities, performance improvement projects, and executive responsibilities.

Employee – a person who works in the service of another person, or company, under an express or implied contract for hire, under which the employer has the right to control the details of work performance for wages, salary, fee or payment.

Employee Prospect – a person or persons to whom an agency expects to extend an offer of employment.

Geographic Service Area – the area from which home health agency patients are drawn. This area is to be clearly defined by readily recognizable boundaries.

Health Care Professional – a physician licensed to practice medicine in all of its branches, a podiatrist, an advanced practice registered nurse (APRN) licensed under the Nurse Practice Act ~~who has a written collaborative agreement with a collaborating physician that authorizes services under the Act~~, or a physician assistant, licensed under the Physician Assistant Practice Act of 1987 ~~who has~~

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~~been delegated the authority to perform services under the Act by his or her supervising physician.~~

Home Health Agency – a public agency or private organization that provides skilled nursing services and at least one other home health service as defined in this Part. (Section 2.04 of the Act)

Home Health Agency Administrator – an employee of the home health agency who is any one of the following:

A physician who has experience in health service administration, with at least one year of supervisory or administrative experience in home health care or in related health provider programs;

A registered professional nurse (RN) who has experience in health service administration, with at least one year of supervisory or administrative experience in home health care or in related health provider programs;

An individual with an undergraduate degree with experience in health service administration, with at least one year of supervisory or administrative experience in home health care or in related health provider programs; or

An individual who meets the requirements for Public Health Administrator as contained in Section 600.300 of the Certified Local Health Department Code who has experience in health service administration, with at least one year of supervisory or administrative experience in home health care or in related health provider programs.

Home Health Aide – a person who provides nursing, medical, or personal care and emotional comfort to assist the patient toward independent living in a safe environment. A person may not be employed as a home health aide unless he/she meets the requirements of Section 245.70.

Home Health Services – services provided to a person at his or her residence according to a plan of treatment for illness or infirmity prescribed by a physician licensed to practice medicine in all its branches, a licensed physician assistant, or a licensed advanced practice registered nurse ~~or podiatrist~~. Such services include part-time and intermittent nursing services and other therapeutic services such as

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physical therapy, occupational therapy, speech therapy, medical social services or services provided by a home health aide. (Section 2.05 of the Act)

Home Nursing Agency – an agency that provides services directly, or acts as a placement agency, in order to deliver skilled nursing and home health aide services to persons in their personal residences. A home nursing agency provides services that would be required to be performed by an individual licensed under the Nurse Practice Act. Home health aide services are provided under the direction of a registered professional nurse or advanced practice registered nurse. A home nursing agency does not require licensure as a home health agency under the Act. "Home nursing agency" does not include an individually licensed nurse acting as a private contractor or a person that provides or procures temporary employment in health care facilities, as defined in the Nurse Agency Licensing Act. (Section 2.11 of the Act)

Home Nursing Services – services that would be required to be performed by an individual licensed under the Nurse Practice Act on a shift schedule, one-time, full-time or part-time, and/or intermittent basis.

Home Services Agency – an agency that provides services directly, or acts as a placement agency, for the purpose of placing individuals as workers providing home services for consumers ~~primarily~~ in their personal residences. Home services agency does not include agencies licensed under the Nurse Agency Licensing Act, the Hospital Licensing Act, the Nursing Home Care Act, the ID/DD Community Care Act, the MC/DD Act, the Specialized Mental Health Rehabilitation Act of 2013, or the Assisted Living and Shared Housing Act and does not include an agency that limits its business exclusively to providing housecleaning services. Programs providing services exclusively through the Community Care Program of the Illinois Department on Aging, the Department of Human Services Office of Rehabilitation Services, or the United States Department of Veterans Affairs are not considered to be a home services agency under the Act. (Section 2.08 of the Act)

Home Services or In-Home Services or In-Home Support Services – assistance with activities of daily living, housekeeping, personal laundry, and companionship provided to an individual in his or her personal residence, which are intended to enable that individual to remain safely and comfortably in his or her own personal residence. "Home services" or "in-home services" does not include services that would be required to be performed by an individual licensed

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under the Nurse Practice Act. (Section 2.09 of the Act) Home care services are focused on providing assistance that is not medical in nature, but is based upon assisting the client in meeting the demands of living independently and maintaining a personal residence, such as companionship, cleaning, laundry, shopping, meal preparation, dressing, and bathing.

Home Services Worker or In-Home Services Worker – an individual who provides home care services to a consumer in the consumer's personal residence. (Section 2.10 of the Act) The terms homemaker and companion are commonly used to refer to this type of worker.

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

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

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

Is a graduate of an occupational therapy curriculum accredited jointly by the Council on Medical Education of the American Medical Association and the American Occupational Therapy Association; or

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

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

Part Time or Intermittent Care – home health services given to a patient at least once every 60 days or as frequently as a few hours a day, several times per week.

Patient – a person who is under treatment or care for illness, disease, injury or conditions appropriately responsive to home health or home nursing services to

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maintain health or prevent illness.

Patient Care Plan – a coordinated and combined care plan prepared by and in collaboration with each discipline providing service to the patient, to the patient's family, or, for home health agencies, to both.

Person – any individual, firm, partnership, corporation, company, association or any other legal entity. (Section 2.03 of the Act)

Personal Care Services – services that are furnished to a client in the client's personal residence to meet the client's physical, maintenance, and supportive needs, when those services are not considered skilled personal care, as described in this Section and Part, and do not require a physician's orders or the supervision of a nurse.

Physical Therapist – a person who is licensed as a physical therapist under the Illinois Physical Therapy Act and who meets the qualifications for a physical therapist under the Federal Conditions of Participation for Home Health Agencies established by the Centers for Medicare and Medicaid Services (42 CFR 484.1 through 484.40).

Physical Therapist Assistant – a person who is licensed as a physical therapist assistant under the Illinois Physical Therapy Act and who meets the qualifications for a physical therapist assistant under the Federal Conditions of Participation for Home Health Agencies established by the Centers for Medicare and Medicaid Services (42 CFR 484.1 through 484.40).

Physician – ~~any~~Any person licensed to practice medicine in all of its branches under the Medical Practice Act of 1987. For a patient who has received medical care in another state, or has moved from another state, and who has not secured the services of a physician licensed in Illinois, an individual who holds an active license to practice medicine in another state will be considered the physician for the patient during this emergency (as determined by the physician) as provided in Section 3 of the Medical Practice Act of 1987. An emergency may not extend more than six months in any case.

Physician Assistant - any person who meets the licensing requirements of the Physician Assistant Practice Act of 1987.

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Placement Agency – any person engaged for gain or profit, regardless of the agency tax status, in the business of securing or attempting to secure work for hire for persons seeking work or workers for employers. The term includes a private employment agency and any other entity that places a worker for private hire by a consumer in that consumer's residence for purposes of providing home services. The term does not include a person that provides or procures temporary employment in health care facilities, as defined in the Nurse Agency Licensing Act. (Section 2.12 of the Act) For the purposes of this Part, there are two types of placement agencies: Home Nursing Placement Agencies (see Section 245.212) and Home Services Placement Agencies (see Section 245.214). A placement agency does not provide ongoing, continuous client support and management of services.

Plan of Treatment – a plan based on the patient's diagnosis and the assessment of the patient's immediate and long-range needs and resources. The plan of treatment is established in consultation with, in the case of a home health agency, the home health services team, which includes the attending physician or podiatrist, pertinent members of the agency staff, the patient, and members of the family.

Podiatrist – a person who is licensed to practice under the Podiatric Medical Practice Act of 1987.

Progress Notes – a dated, written notation by a member of the health team, summarizing facts about care and the patient's response during a given period of time.

Purchase of Services or Contractual – the provision of services through a written agreement with other providers of services.

Quality Assessment and Performance Improvement or QAPI – the coordinated application of two mutually-reinforcing aspects of a quality management system. QAPI takes a systematic, comprehensive, and data-driven approach to maintaining and improving safety and quality in home health agencies while involving all home health caregivers in practical and creative problem solving. Quality assessment is the specification of standards for quality of service and outcomes, and is a process used throughout the organization to ensure care is maintained at acceptable levels in relation to those standards. Performance improvement is the continuous study and improvement of processes with the

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intent to better services or outcomes, and to decrease the likelihood of problems, by identifying areas of opportunity.

Registered Professional Nurse or RN – a person who is licensed as a registered professional nurse under the Nurse Practice Act.

Skilled Nursing Services – those services that, due to their nature and scope, would require the performing individual to be licensed under the Nurse Practice Act. These services are acts requiring the basic nursing knowledge, judgment and skills acquired by means of completion of an approved nursing education program and include, but are not limited to: assessment of healthcare needs; nursing diagnosis; planning, implementation and nursing evaluation; counseling; patient education; health education; the administration of medications and treatments; and the coordination or management of a nursing or medical plan of care.

Skilled Personal Care – personal care that may be provided only by a home health aide, as defined in this Section, or an individual who is a certified or licensed health care professional under the laws of the State of Illinois.

Social Work Assistant – a person who has a baccalaureate degree in social work, psychology, sociology, or other field related to social work and has at least one year of social work experience in a health care setting.

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

Student – an individual who is enrolled in an educational institution and who is receiving training in a health-related profession.

Subdivision – a component of a multi-function health agency, such as the home care department of a hospital or the nursing division of a health department, which independently meets the federal conditions of participation for home health agencies. A subdivision that has branches is regarded as a parent agency.

Substantial Compliance or Substantially Meets – meeting requirements except for variance from the strict and literal performance, which results in unimportant omissions or defects given the particular circumstances involved.

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Summary Report – a compilation of pertinent factors from the clinical and progress notes regarding a patient that is submitted to the patient's physician or podiatrist.

Supervision – authoritative procedural guidance by a qualified person of the appropriate discipline.

(Source: Amended at 46 Ill. Reg. 10410, effective May 31, 2022)

Section 245.25 Incorporated and Referenced Materials

- a) The following federal statutes are referenced in this Part:

Civil Rights Act of 1964 (42 USC 1981 et seq.)

- b) The following federal regulations are incorporated by reference in this Part and apply only to Medicare certified agencies:

Department of Health and Human Services, Centers for Medicare and Medicaid Services, Home Health Services (42 CFR 484, October 1, ~~2020~~2018).

- c) The following guidelines of a federal agency are incorporated by reference in this Part:

Department of Health and Human Services, Centers for Disease Control and Prevention, 1600 Clifton Road, Atlanta, Georgia 30333:

- 1) General Best Practice Guidelines for Immunization: Best Practices Guidance of the Advisory Committee on Immunization Practices (May 4, 2021) available at <https://www.cdc.gov/vaccines/hcp/acip-recs/general-recs/index.html> ~~General Recommendations on Immunization, Morbidity and Mortality Weekly Report (MMWR) (February 8, 2002)~~
- 2) Guidelines for Hand Hygiene in Health-Care Settings (October 2002) available at <https://www.cdc.gov/mmwr/pdf/rr/rr5116.pdf>
- 3) Infection Control in Healthcare Personnel: Infrastructure and Routine Practices for Occupational Infection Prevention and Control Services (October 25, 2019) ~~Guidelines for Infection Control in Health Care~~

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~~Personnel (June 1998)~~ available in two parts at
<https://www.cdc.gov/infectioncontrol/pdf/guidelines/infection-control-HCP-H.pdf> and
<https://www.cdc.gov/infectioncontrol/guidelines/healthcare-personnel/index.html>

- d) All incorporations by reference of federal regulations and guidelines in this Part refer to the regulations and guidelines on the date specified and do not include any amendments or editions subsequent to the date specified.
- e) The following State statutes are referenced in this Part:
 - 1) Administrative Review Law [735 ILCS 5/Art. III]
 - 2) Business Corporation Act of 1983 [805 ILCS 5]
 - 3) Illinois Administrative Procedure Act [5 ILCS 100]
 - 4) Nurse Practice Act [225 ILCS 65]
 - 5) Illinois Occupational Therapy Practice Act [225 ILCS 75]
 - 6) Illinois Physical Therapy Act [225 ILCS 90]
 - 7) Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110]
 - 8) Local Records Act [50 ILCS 205]
 - 9) Medical Practice Act of 1987 [225 ILCS 60]
 - 10) Health Care Worker Background Check Act [225 ILCS 46]
 - 11) Nurse Agency Licensing Act [225 ILCS 510]
 - 12) Clinical Social Worker and Social Work Practice Act [225 ILCS 20]
 - 13) Podiatric Medical Practice Act of 1987 [225 ILCS 100]

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- 14) Assisted Living and Shared Housing Act [210 ILCS 9]
- 15) Code of Civil Procedure, Article VIII, Part 21 (Medical Studies) [735 ILCS 5/Art. VIII, Part 21]
- 16) Private Employment Agency Act [225 ILCS 515]
- 17) Unemployment Insurance Act [820 ILCS 405]
- 18) Workers' Compensation Act [820 ILCS 305]
- 19) Hospital Licensing Act [210 ILCS 85]
- 20) Nursing Home Care Act [210 ILCS 45]
- 21) Alzheimer's Disease and Related Dementias Services Act [410 ILCS 406]
- 22) ID/DD Community Care Act [210 ILCS 47]
- 23) MC/DD Act [210 ILCS 46]
- 24) Specialized Mental Health Rehabilitation Act of 2013 [210 ILCS 49]
- 25) [Physician Assistant Practice Act of 1987 \[225 ILCS 95\]](#)

f) The following State rules are referenced in this Part:

- 1) Department of Public Health, Certified Local Health Department Code (77 Ill. Adm. Code 600)
- 2) Department of Public Health, Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)
- 3) Department of Public Health, Long-Term Care Assistants and Aides Training Programs Code (77 Ill. Adm. Code 395).
- 4) Department of Public Health, Health Care Worker Background Check Code (77 Ill. Adm. Code 955)

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- 5) Department of Public Health, Central Complaint Registry (77 Ill. Adm. Code 400)

(Source: Amended at 46 Ill. Reg. 10410, effective May 31, 2022)

SUBPART B: OPERATIONAL REQUIREMENTS

Section 245.40 Staffing and Staff Responsibilities

- a) Home Health Administrator or Agency Manager. The administrator or agency manager shall have the following responsibilities:
 - 1) Ensure that the agency is in compliance with all applicable federal, State and local laws;
 - 2) Be familiar with the applicable rules of the Department and maintain them within the agency;
 - 3) Familiarize all employees as well as providers through contractual purchase of services with the Act and the rules of the Department and make copies available for their use;
 - 4) Ensure that reports and records as required by the Department are completed, maintained and submitted;
 - 5) Maintain ongoing liaison with the governing body, staff members and the community;
 - 6) Maintain a current organizational chart to show lines of authority down to the patient or client level;
 - 7) Manage business affairs and the overall operation of the agency;
 - 8) Maintain personnel records, administrative records and all policies and procedures of the agency;
 - 9) Employ qualified personnel in accordance with job descriptions;
 - 10) Provide orientation of new staff, regularly scheduled in-service education

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programs and opportunities for continuing education for the staff; and

- 11) Designate in writing the qualified staff member to act in the absence of the administrator.

b) Home Health Aide

- 1) When home health aide services are offered, the services shall be under the supervision of an RN in accordance with the plan of treatment. The RN shall assign the home health aide to a particular patient. The RN or the appropriate therapist shall prepare written instructions for patient care.
- 2) Duties of the home health aide may include:
 - A) Performing simple procedures as an extension of therapeutic services;
 - B) Skilled personal care and personal care, as defined in this Part;
 - C) Patient ambulation and exercise;
 - D) Household services essential to health care at home;
 - E) Assisting with medications that are ordinarily self-administered;
 - F) Reporting changes in the patient's or client's condition and needs to the RN or the appropriate therapist; and
 - G) Completing appropriate records.
- 3) For home health agencies, the RN or appropriate therapist shall make a supervisory visit to the patient's residence at least every two weeks either when the home health aide is present to observe and assist, or when the home health aide is absent.
 - A) If an area of concern in aide services is noted by the supervising RN or other appropriately skilled professional, then the supervising individual shall make an on-site visit to the location where the patient is receiving care in order to observe and assess the aide

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while ~~the aide~~~~he or she~~ is performing care no later than the next supervisory visit.

- B) An RN or other appropriately skilled professional shall make an annual on-site visit to the location where a patient is receiving care in order to observe and assess each aide while ~~the aide~~~~he or she~~ is performing care.
 - C) The purpose of the supervisory visits is to assess relationships and determine that the aide furnishes care in a safe and effective manner by following the patient's plan, demonstrating competency with assigned tasks, complying with infection prevention and control policies and procedures, reporting changes in the patient's condition, honoring the patient's rights, and maintaining open communication.
- 4) For home nursing agencies, the RN shall make a supervisory visit to the patient's/client's residence at least every 60 days when the home health aide is present to observe and assist, or when the home health aide is absent.
- A) If an area of concern in aide services is noted by the supervising RN, then the supervising individual shall make an on-site visit to the location where the patient is receiving care in order to observe and assess the aide while ~~the aide~~~~he or she~~ is performing care no later than the next supervisory visit.
 - B) An RN shall make an annual on-site visit to the location where a patient is receiving care in order to observe and assess each aide while ~~the aide~~~~he or she~~ is performing care.
 - C) The purpose of the supervisory visits is to assess relationships and determine that the aide furnishes care in a safe and effective manner by following the patient's plan, demonstrating competency with assigned tasks, complying with infection prevention and control policies and procedures, reporting changes in the patient's condition, honoring patient's rights, and maintaining open communication.

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- c) Home Services or In-Home Services Worker
- 1) As defined in this Part and under the Act, *home services or in-home services means assistance with activities of daily living , housekeeping, personal laundry, and companionship provided to an individual in his or her personal residence, which are intended to enable that individual to remain safely and comfortably in his or her own personal residence. Home services or in-home services does not include services that would be required to be performed by an individual licensed under the Nurse Practice Act. (Section 2.09 of the Act) Home services are focused on providing assistance that is not medical in nature, but is based upon assisting the client in meeting the demands of living independently and maintaining a personal residence, such as companionship, cleaning, laundry, shopping, meal preparation, dressing, and bathing.*
 - 2) Home services or in-home services workers shall provide services only in accordance with this Part.
 - 3) Duties of home services or in-home services workers may include the following:
 - A) Observation of client functioning and reporting changes to ~~their~~^{his} ~~or her~~ supervisor or employer or to a person designated by the client;
 - B) Assistance with household chores, including cooking and meal preparation, cleaning and laundry;
 - C) Assistance in completing activities such as shopping and appointments outside of the home;
 - D) Companionship;
 - E) Completion of appropriate records documenting service provision; and
 - F) Assistance with activities of daily living and personal care.

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- 4) To delineate the types of services that can be provided by a home services worker, the following are examples of acceptable tasks and also limitations when a more medical model of assistance would be needed to meet the higher needs of the client.
- A) Skin Care.** A home services worker may perform general skin care assistance. Except for the application of simple bandages as first aid, skin~~skin~~ care may be performed by a home services worker only when skin is unbroken, and when any chronic skin problems are not active. The skin care provided by a home services worker shall be preventative rather than therapeutic in nature, and may include the application of non-medicated lotions and solutions, or of lotions and solutions not requiring a ~~physician's~~ prescription from a health care professional. Skilled skin care shall be provided only by an agency licensed as a home health or home nursing services agency. Skilled skin care includes wound care, dressing changes, application of prescription medications, skilled observation and reporting.
- i) The client or client's representative shall be able to provide ongoing feedback and advocate for their needs, including indications of potential harm and discomfort, to the home services worker;
- ii) The home services worker shall have completed training in first aid for a lay person; and
- iii) The agency shall have conducted a competency evaluation of the home services worker's ability to employ the methods required to implement first aid effectively and safely.
- B) Ambulation.** A home services worker may assist clients with ambulation. Clients in the process of being trained to use adaptive equipment for ambulation, such as walkers, canes or wheelchairs, require supervision by an agency licensed to provide home health or home nursing services during the period of training. Once the prescribing health care professional~~individual~~ or the health care provider responsible for training the client and/or home services

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worker is comfortable with releasing the client to work on the client's~~his or her~~ own with the adaptive equipment, a home services worker may assist with ambulation.

- i) The client or client's representative shall be able to provide ongoing feedback to the home services worker including indications of potential harm and discomfort, and advocate for their needs;
- ii) The home services worker shall have completed training in the methods required to assist clients with adaptive equipment for ambulation; and
- iii) The agency shall have conducted a competency evaluation of the home services worker's ability to employ the methods required to assist those clients who require the use of adaptive equipment for ambulation effectively and safely.

C) Bathing. A home services worker may assist clients with bathing. When a client has skilled skin care needs or skilled dressings that will need attention before, during, or after bathing, the client shall be in the care of an agency licensed as a home health agency or a home nursing agency to meet those specific needs. Home services workers may assist individuals in all types of bathing (e.g. tub, shower, sponge, bed)~~who are unable to be bathed in a tub or shower~~ only when the following requirements are met:

- i) The client or client's representative shall be able to provide ongoing feedback to the home services worker including indications of potential harm and discomfort, and advocate for their needs~~The home services worker shall have been trained in the particular methods required to perform a bed bath;~~
- ii) The home services worker shall have completed training in the particular methods required to perform the client-specific bath, including the observations of indications of potential harm or discomfort~~The client or client's~~

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~~representative shall be able to participate in or direct the bathing process and provide ongoing feedback to the home services worker; and~~

- iii) The agency shall have conducted a competency evaluation of the home services worker's ability to employ the methods required to perform the bath; and ~~a bed bath~~.
- iv) The agency shall conduct annual training and competency evaluation for skills to perform all types of bathing effectively and safely.

D) Dressing. A home services worker may assist a client with dressing. This may include assistance with ordinary clothing and application of support stockings of the type that can be purchased without a ~~physician's~~ prescription from a health care professional. A home services worker may not assist with applying an elastic bandage that can be purchased only with a ~~physician's~~ prescription from a health care professional (the application of which involves wrapping a part of the client's body) or with applying a sequential compression device that can be purchased only with a prescription from a health care professional unless the following requirements are met: ~~physician's prescription~~.

- i) The client's prescribing health care professional has issued an order allowing the home service worker to apply the compression device as a part of daily activities of living;
- ii) The client or client's representative shall be able to provide ongoing feedback to the home services worker including indications of potential harm and discomfort, and advocate for their needs;
- iii) The home services worker shall have completed training in the application of the compression device, including observations of indications of potential harm or discomfort; and

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iv) The agency shall have conducted a competency evaluation of the home services worker's ability to employ the methods required to apply the compressional device effectively and safely.

E) Exercise. A home services worker may assist a client with exercise. Passive assistance with exercise that can be performed by a home services worker is limited to encouraging normal bodily movement, as tolerated, on the part of the client, and encouragement with a prescribed exercise program. A home services worker shall not perform Passive Range of Motion.

F) Feeding. A home services worker may provide assistance with feeding. Home services workers can assist clients with feeding when the client can independently swallow and be positioned upright. Assistance by a home services worker does not include syringe, tube feedings, and intravenous nutrition. Whenever there is a high risk that the client may choke as a result of the feeding, the client shall be in the care of an agency licensed as a home health or home nursing agency to fulfill this function. The home services worker can assist the client by opening a pre-measured thickening product to be added to liquids as per client request and under direct client observation when the following requirements are met:

i) The client or client's representative shall be able to provide ongoing feedback to the home services worker including indications of potential harm and discomfort, and advocate for their needs;

ii) The home services worker shall have completed training in the indications, precautions, and methods required to use pre-measured thickening products; and

iii) The agency shall have conducted a competency evaluation of the home services worker's ability to employ the methods required to use pre-measured thickening products effectively and safely.

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- G) Hair Care.** As a part of the broader set of services provided to clients who are receiving home services, home services workers may assist clients with the maintenance and appearance of their hair, including shampooing with a non-medicated shampoo, drying, combing, and styling. Home services workers may use a shampoo prescribed by the client's health care professional only if the following requirements are met: ~~Hair care within these limitations may include shampooing with non-medicated shampoo or that does not require a physician's prescription, drying, combing and styling hair.~~
- i) The client's prescribing health care professional has issued an order allowing the home service worker to apply the prescription shampoo;
 - ii) The client or client's representative shall be able to provide ongoing feedback to the home services worker including indications of potential harm and discomfort, and advocate for their needs;
 - iii) The home services worker shall have completed training in the methods required to apply prescription shampoo, including the importance of observing any open skin lesions, and shall document and report these to the agency and client's emergency contact;
 - iv) The agency shall have conducted a competency evaluation of the home services worker's ability to employ the methods required to apply prescription shampoo effectively and safely; and
 - v) The agency shall conduct annual training and competency evaluation for skills to apply and observe clients during shampooing.
- H) Mouth Care.** A home services worker may assist in and perform mouth care. This may include denture care and basic oral hygiene, including oral suctioning for mouth care. Mouth care for clients

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who are unconscious shall be performed by an agency licensed as a home health agency or home nursing agency.

I) Nail Care. A home services worker may assist with nail care. This assistance may include soaking of nails, pushing back cuticles without utensils, and filing nails. Assistance by a home services worker shall not include nail trimming. If a client has~~Clients with~~ a medical condition that might involve peripheral circulatory problems or loss of sensation, a home services worker may file the client's nails only if the following requirements are met: ~~-shall be under the care of an agency licensed as a home health agency or home nursing agency to meet this need.~~

- i) The client's health care professional has issued an order allowing the home service worker to file the client's nails;
- ii) The client or client's representative shall be able to provide ongoing feedback to the home services worker, including indications of potential harm or discomfort, and advocate for their needs;
- iii) The home services worker shall have completed training in the methods required to assist with nail care, including the importance of observing for and reporting of any potential signs of injury or harm for a client with peripheral circulatory conditions; and
- iv) The agency shall have conducted a competency evaluation of the home services worker's ability to employ the methods required to perform nail care effectively and safely and to observe and report potential signs of injury or harm.

J) Positioning. A home services worker may assist a client with positioning when the client is able to identify to the personal care staff, either verbally, non-verbally or through others, when the position needs to be changed. For clients that are unable to identify when their position needs to be changed, a home services worker may assist with client position per subsection 245.210(d)(2) and as instructed by the service plan, only when

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skilled skin care, as previously described, is not required in conjunction with the positioning. Positioning may include simple alignment in a bed, wheelchair, or other furniture. A home services worker may assist a client with positioning only if the following requirements are met:

- i) The home services worker shall have completed training in the methods required to monitor and observe verbal and non-verbal indications and cues from the client that re-positioning may be needed, the indications of and procedures for positioning and repositioning of clients, and the importance of following the service plan concerning the client's positioning needs, including, when possible, reminders to clients concerning the importance of repositioning.
- ii) The client or client's representative shall be able to provide ongoing feedback (including non-verbal indications and cues) and advocate for their needs, including indications of potential harm or discomfort by the home services worker during any repositioning. If the client representative is present when the position needs to be changed, the client's representative shall be able to assist with the repositioning, either directly or by providing ongoing feedback, including indications of potential harm or discomfort, to the home services worker; and
- iii) The agency shall have conducted a competency evaluation of the home services worker's ability to employ the methods required to perform repositioning effectively and safely as needed.

- K) Shaving. A home services worker may assist a client with shaving only with an electric or a safety razor.
- L) Toileting. A home services worker may assist a client to and from the bathroom; provide assistance with bed pans, urinals, and commodes; provide pericare; or change clothing and pads of any kind used for the care of incontinence.

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- i) A home services worker may empty or change external urine collection devices, such as catheter bags or suprapubic catheter bags. In all cases, the insertion and removal of catheters and care of external catheters is considered skilled care and shall not be performed by a home services worker.
- ii) A home services worker may empty ostomy bags and provide assistance with other client-directed ostomy care only when there is no need for skilled skin care or for observation or reporting to a nurse. A home services worker shall not perform digital stimulation, insert suppositories, or give an enema.

M) Transfers. A home services worker may assist with transfers, transfers using adaptive equipment (e.g., wheelchairs, tub seats, and grab bars), transfers using safety equipment (e.g., gait belts), and transfers using a mechanical or electrical transfer device only when the client has sufficient balance and strength to reliably stand and pivot and assist with the transfer either directly or by providing ongoing feedback, including indications of potential harm or discomfort, to the home services worker through either verbal or non-verbal indications and cues, and the following conditions are met: ~~to some extent. Adaptive and safety equipment may be used in transfers, provided that the client is fully trained in the use of the equipment and can direct the transfer step by step. Adaptive equipment may include, but is not limited to, wheelchairs, tub seats, and grab bars. Gait belts may be used as a safety device for the home services worker as long as the worker has been properly trained in their use. A home services worker shall not assist with transfers when the client is unable to assist with the transfer. Home services workers may assist clients in the use of a mechanical or electrical transfer device only when the following conditions are met:~~

- i) The client or client's representative can provide ongoing feedback to the home services worker, including indications of potential harm or discomfort through either

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verbal or non-verbal indications and cues, and advocate for their needs;

ii) The home services worker shall have completed training in transfer techniques and any client-specific adaptive equipment, safety equipment, and mechanical or electrical transfer devices; and

iii) The agency shall have conducted a competency evaluation of the home services worker's ability to employ the methods required to perform transfers effectively and safely, including any adaptive equipment, safety equipment, and mechanical or electrical transfer devices.

~~i) The home services worker shall have been trained in the use of the mechanical or electrical transfer device by the licensed agency;~~

~~ii) The client or client representative shall be able to direct the transfer step by step; and~~

~~iii) The agency shall have conducted a competency evaluation of the worker using the type of device that is available in the home.~~

N) Medication Reminding. A home services worker may assist a client with medication reminding only when medications have been pre-selected by the client, a family member, a nurse, or a pharmacist and are stored in containers other than the prescription bottles, such as medication minders. Medication minder containers shall be clearly marked as to day and time of dosage. Medication reminding includes: inquiries as to whether medications were taken; verbal prompting to take medications; handing the appropriately marked medication minder container to the client; and opening the appropriately marked medication minder container for the client if the client is physically unable to open the container. These limitations apply to all prescription and all over-the-counter medications. The home services worker shall immediately report to the supervisor, or, in the case of a placement

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worker, to the client or the client's advocate or designee, any irregularities noted in the pre-selected medications, such as medications taken too often or not often enough, or not at the correct time as identified in the written instructions.

- O) Respiratory Care. A home services worker shall not provide respiratory care except within the limitations as enumerated in this Section. Respiratory care is skilled and includes postural drainage; cupping; adjusting oxygen flow within established parameters; nasal, endotracheal and tracheal suctioning; and turning off or changing tanks. However, a home services worker ~~workers~~ may temporarily remove and replace a cannula or mask from the client's face for the purposes of shaving or washing a client's face and may provide oral suctioning. A home services worker may assist the client with changing the oxygen delivery system from a stationary system to a portable system as directed by the client and the client's health care professional to enable client transport, or in emergency situations such as loss of electrical power in the client's home (stationary systems are electrically powered devices). For the purposes of this Section, a "stationary system" refers to an oxygen concentrator used for at-home oxygen therapy and is not intended to be fully mobile. For those home services workers that are assigned to clients who require continuous supplemental oxygen therapy, the home services worker may assist the client with changing of the delivery system from stationary to portable only when the following conditions are met:
- i) The home services worker shall have completed training in switching client-specific oxygen delivery systems from stationary to portable and the risks associated with improper adjustment of O2 flow rates;
 - ii) The agency shall have conducted a competency evaluation of the home service's workers ability to employ the methods required to change the oxygen delivery system effectively and safely, including any client-specific equipment; and

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- iii) A home services agency seeking to have a home services worker assist a client with changing of oxygen delivery systems shall maintain an individual on staff that has been trained and is able to conduct training and administer competency evaluation for any home services worker assisting clients with changing of the delivery system from stationary to portable.
- P) A home services worker may remind a client to perform client monitoring, including monitoring of heart rate, blood pressure, oxygen saturation, and temperature and weight. The home service agency shall not provide the client and/or family any service to interpret the data or to take clinical action of the monitoring results. The home services worker may assist the client with the application of the heart rate, blood pressure, and oxygen saturation device and assist the client with recording the device reading.
- 5) In addition to the exclusions prescribed in subsection (c)(4), home services workers shall not act in the following capacities:
- A) Provide skilled personal care services as defined in Section 245.20;
- B) Become or act as a power of attorney;
- C) Be involved in any financial transactions of the client outside of contracted services. In these cases, the home services worker shall follow agency policies in regard to securing receipts for items purchased and ensuring both client and worker signatures documenting those expenditures;
- D) Perform or provide medication setup for a client; and
- E) Other actions specifically prohibited by agency policy or other State laws.
- 6) Supervision of a home services worker shall include the following (these provisions do not apply to placement agencies):

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- A) An individual who is in a supervisory capacity shall be designated and available to the worker for responses to questions at all times.
- B) On-site supervision shall take place at a minimum of every 90 days or more often if the plan of service requires it. The supervisory visits may be made when the home services worker is present so that the supervisor may observe, or when the home services worker is absent so that the supervisor may assess relationships and determine whether the service plan is being met.
 - i) If an area of concern in the performance of a home service worker is noted by the supervisor, then the supervising individual shall make an on-site visit to the location where the client is receiving services in order to observe and assess the home service worker while he or she is performing care no later than the next supervisory visit.
 - ii) The supervisor shall make an annual on-site visit to the location where a client is receiving care in order to observe and assess each home service worker while he or she is performing care.
 - iii) The purpose of the supervisory visits is to assess relationships and determine that the home service worker furnishes care in a safe and effective manner by following the client's service plan, demonstrating competency with assigned tasks, complying with infection prevention and control policies and procedures, reporting changes in the patient's condition, honoring patient's rights, and maintaining open communication.
- C) Supervision does not constitute time or an activity that can be billed as a service to the client or consumer.
- d) Licensed Practical Nurse
 - 1) The licensed practical nurse may perform selected acts in accordance with the Nurse Practice Act and under the direction of an RN, including administering treatments and medications in the care of the ill, injured or

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infirm; health maintenance; and illness prevention.

- 2) The licensed practical nurse shall report changes in the patient's condition to the RN, and these reports shall be documented in the clinical notes.
 - 3) The licensed practical nurse shall prepare clinical notes for the clinical record.
- e) Medical Social Worker. When medical social services are provided, the social worker or social work assistant under the supervision of a social worker shall provide the services in accordance with the plan of treatment. These services shall include the following:
- 1) Assist the physician or podiatrist and other members of the health team in understanding significant social and emotional factors related to the patient's health problems.
 - 2) Assess the social and emotional factors to estimate the patient's capacity and potential to cope with the problems of daily living.
 - 3) Help the patient and family to understand, accept, and follow medical recommendations and provide services planned to restore the patient to the optimum social and health adjustment within the patient's capacity.
 - 4) Assist the patient and family with personal and environmental difficulties that predispose toward illness or interfere with obtaining maximum benefits from medical care.
 - 5) Use all available resources, such as family and community agencies, to assist the patient to resume life in the community or to live within the disability.
 - 6) Observe, record and report social and emotional changes.
 - 7) Prepare clinical and progress notes for the clinical record.
 - 8) Supervise the social work assistant, which shall include the following:
 - A) A licensed social worker shall be accessible by telephone to the

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social work assistant at all times while the social work assistant is treating patients.

- B) On-site supervision shall take place every four to six visits. The supervisory visits may be made either when the social work assistant is present so that the supervisor may observe and assist, or when the social work assistant is absent so that the supervisor may assess relationships and determine whether goals are being met.
 - C) Supervision does not constitute treatment.
 - D) The supervisory visit shall include a complete on-site assessment, an on-site review of activities with appropriate revision of treatment plan, and an assessment of the use of outside resources.
- f) Occupational Therapist and Occupational Therapy Assistant. When occupational therapy services are required, an occupational therapist or an occupational therapy assistant under the supervision of an occupational therapist shall provide the services in accordance with the plan of treatment and within the licensee's scope of practice as established by the Illinois Occupational Therapy Practice Act. These services shall include the following:
- 1) Instruct other health team personnel, including, when appropriate, home health aides and family members in certain phases of occupational therapy in which they may work with the patient.
 - 2) Prepare clinical and progress notes for the clinical record.
 - 3) Supervise the occupational therapy assistant, which shall include the following:
 - A) A licensed occupational therapist shall be accessible by telephone to the occupational therapy assistant at all times while the occupational therapy assistant is treating patients.
 - B) On-site supervision shall take place every four to six visits. The supervisory visits may be made either when the occupational therapy assistant is present so that the supervisor may observe and assist, or when the occupational therapy assistant is absent so that

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the supervisor may assess relationships and determine whether goals are being met.

- C) Supervision does not constitute treatment.
- D) The supervisory visit shall include a complete on-site functional assessment, an on-site review of activities with appropriate revision of treatment plan, and an assessment of the use of outside resources.

g) Physical Therapist and Physical Therapist Assistant

- 1) When physical therapy services are provided, a physical therapist or a physical therapist assistant under the supervision of a physical therapist shall provide the services in accordance with the plan of treatment and within the licensee's scope of practice as established by the Illinois Physical Therapy Act. These services shall include the following:
 - A) Instruct other health team personnel, including, when appropriate, home health aides and family members, in certain phases of physical therapy with which they may work with the patient.
 - B) Instruct the patient and family in the total physical therapy program.
 - C) Prepare clinical and progress notes for the clinical record.
- 2) Supervision of the physical therapist assistant shall include the following:
 - A) A licensed physical therapist shall be accessible by telephone to the physical therapist assistant at all times while the physical therapist assistant is treating patients.
 - B) On-site supervision shall take place every four to six visits. The supervisory visits may be made either when the physical therapist assistant is present so that the supervisor may observe and assist, or when the physical therapist assistant is absent so that the supervisor may assess relationships and determine whether goals are being met.

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- C) Supervision does not constitute treatment.
 - D) The supervisory visit shall include a complete on-site functional assessment, an on-site review of activities with appropriate revision of treatment plan, and an assessment of the utilization of outside resources.
- 3) The physical therapist assistant shall:
- A) Be directed by and under the supervision of a licensed physical therapist and within the licensee's scope of practice as established by the Illinois Physical Therapy Act;
 - B) Administer the physical therapy program as established by the physical therapist;
 - C) Observe patient's progress and response to treatment, and report to the physical therapist; and
 - D) Confer with members of the health care team for planning, modifying and coordinating treatment programs.
- h) Registered Professional Nurse. The RN may perform selected acts in accordance with the Nurse Practice Act. Skilled nursing services shall be provided by an RN in accordance with the plan of treatment. The RN shall:
- 1) Be responsible for the observation, assessment, nursing diagnosis, counsel, care and health teaching for patients, and health maintenance and illness prevention for others;
 - 2) Maintain a clinical record for each patient receiving care;
 - 3) Provide progress notes to the patient's physician or podiatrist about patients under care when the patient's conditions change or there are deviations from the plan of care, or at least every 60 days for a home health agency and every 90 days for a home nursing agency;
 - 4) In the case of an RN working as a part of a home health or home nursing

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agency, make home health aide assignments, prepare written instructions for the aide, and supervise the aide in the home;

- 5) Direct the activities of the licensed practical nurse;
 - 6) Administer medications and treatments as prescribed by the patient's physician or podiatrist; and
 - 7) Act as the coordinator of the health care team in order to maintain the proper linkages within a continuum of care.
- i) Speech-Language Pathologist. The speech-language pathologist may perform selected acts in accordance with the Illinois Speech-Language Pathology and Audiology Practice Act. When required, speech therapy services shall be provided by a speech-language pathologist in accordance with the plan of treatment. The speech-language pathologist shall:
- 1) Assist the physician in determining and recommending appropriate speech and hearing services;
 - 2) Evaluate the patient's speech and language abilities and establish a plan of care;
 - 3) Provide rehabilitation services for speech and language disorders;
 - 4) Record and report to the patient's physician the patient's progress in treatment and any changes in the patient's condition and plan of care;
 - 5) Instruct other health team personnel and family members in methods of assisting the patient in improving communication skills; and
 - 6) Prepare clinical and progress notes for the clinical record.
- j) Audiologist. The audiologist may perform selected acts in accordance with the Illinois Speech-Language Pathology and Audiology Practice Act. When audiology services are required, an audiologist shall provide the services in accordance with the plan of treatment. The audiologist shall:
- 1) Administer diagnostic hearing tests to evaluate the patient's audiological

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abilities;

- 2) Assess the patient's need for amplification;
 - 3) Provide rehabilitative services for hearing disorders;
 - 4) Instruct other health team personnel and family members in methods of assisting the patient in improving communication skills; and
 - 5) Record and report to the patient's physician the patient's response to rehabilitative intervention.
- k) Student Training Program. When an agency elects to participate with an educational institution to provide clinical experience for students as part of their health-related professional training, a written agreement between the agency and each educational institution shall specify the responsibilities of the agency and the educational institution. The agreement shall include, at a minimum, the following provisions:
- 1) The agency retains the responsibility for client care;
 - 2) The educational institution retains the responsibility for student education;
 - 3) Student and faculty performance expectations;
 - 4) Faculty supervision of undergraduate students in the clinic and the field;
 - 5) Ratio of faculty to students;
 - 6) Confidentiality regarding patient information;
 - 7) Required insurance coverage; and
 - 8) Provisions for the agency and faculty to jointly evaluate the students' performance and the training program.

(Source: Amended at 46 Ill. Reg. 10410, effective May 31, 2022)

Section 245.55 Vaccinations

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a) Influenza

- 1) *A home health agency and home nursing agency shall annually administer or arrange for administration of a vaccination against influenza to each client/patient, in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention ~~that are most recent to the time of vaccination~~ ~~titled Morbidity and Mortality Weekly Report, General Recommendations on Immunization (see Section 245.25), unless the vaccination is medically contraindicated or the client/patient has refused the vaccine.~~ (Section 6.5 of the Act)*
- 2) The following activities by home health or home nursing agencies shall be considered to be "arranging for" a client/patient to receive an influenza vaccination:
 - A) Referring a client/patient to the ~~health care professional~~ ~~physician~~ who is supervising the client's/patient's home care, or to his/her primary ~~health care professional~~ ~~care physician~~; or
 - B) Referring a client/patient to the hospital affiliated with the home health agency; or
 - C) Referring a client/patient to the local health department or other community location (e.g., local pharmacy, influenza vaccine clinic, hospital) where influenza vaccinations are available; or
 - D) Arranging for the local health department or other private or community health organization to provide the vaccination in the client's/patient's home.
- 3) When a referral or arrangement is made, home health or home nursing agency staff shall assist the client/patient in developing a plan for implementing the referral or arrangement and shall assess implementation of the plan and document the outcome.
- 4) *Influenza vaccination for all clients/patients age 65 or over shall be completed by November 30 of each year or as soon as practicable if*

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vaccine supplies are not available before November 1. Home health or home nursing clients/patients whose services start after November 30, during the flu season, and until February 1, shall, as medically appropriate, receive an influenza vaccination prior to or upon service initiation or as soon as practicable if vaccine supplies are not available at the time of the service initiation, unless the vaccine is medically contraindicated or the client/patient has refused the vaccine. (Section 6.5(a) of the Act)

- 5) For all clients/patients who are provided services between November 1 and February 28, the *home health or home nursing agency shall document in the client's/patient's medical record that an annual vaccination against influenza was administered, arranged, refused, or medically contraindicated* or that the client/patient is not a member of a vaccination priority population. (Section 6.5(a) of the Act)
- 6) The following shall be considered to be documentation approaches that meet the requirements of Section 6.5 of the Act:
 - A) Individual client/patient record entries identifying the assessment for the need of vaccination; date of offer or referral; client/patient response; administration, contraindication, or refusal; and any follow-up activities.
 - B) Standardized check-off form recording client/patient specific information, including the assessment for the need of vaccination; date of offer or referral; client/patient response; administration, contraindication, or refusal; and any follow-up activities.

b) Pneumococcal pneumonia

- 1) *A home health or home nursing agency shall administer or arrange for administration of a pneumococcal vaccination, in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention that are most recent to the time of vaccination ~~titled Morbidity and Mortality Weekly Report, General Recommendations on Immunization (see Section 245.25),~~ to each client/patient who is age 65 or over and who has not received this immunization prior to or upon service initiation, unless the client/patient*

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refuses the offer for vaccination or the vaccination is medically contraindicated. (Section 6.5(b) of the Act)

- 2) The following activities by home health or home nursing agencies shall be considered to be "arranging for" a home health client/patient to receive a pneumonia vaccination:
 - A) Referring a client/patient to the health care professional~~physician~~ who is supervising his/her home care, or to his/her primary health care professional~~care physician~~; or
 - B) Referring a client/patient to the hospital affiliated with the home health agency; or
 - C) Referring a client/patient to the local health department or other community location (e.g., local pharmacy, clinic, hospital) where pneumonia vaccinations are available; or
 - D) Arranging for the local health department or other private or community health organization to provide the vaccination in the client's/patient's home.
- 3) When a referral or arrangement is made, home health or home nursing agency staff shall assist the client/patient in developing a plan for implementing the referral or arrangement and shall assess implementation of the plan and document the outcome.
- 4) *A home health or home nursing agency shall document in each client's/patient's medical record that a vaccination against pneumococcal pneumonia was offered and was administered, arranged, refused, or medically contraindicated or that the client/patient is not a member of a vaccination priority population.* (Section 6.5(b) of the Act)
- 5) The following shall be considered to be documentation approaches that meet the requirements of Section 6.5 of the Act:
 - A) Individual client/patient record entries identifying the assessment for the need of vaccination; date of offer or referral; client/patient

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response; administration, contraindication, or refusal; and any follow-up activities.

- B) Standardized check-off form recording client/patient specific information, including the assessment for the need of vaccination; date of offer or referral; client/patient response; administration, contraindication, or refusal; and any follow-up activities.

(Source: Amended at 46 Ill. Reg. 10410, effective May 31, 2022)

Section 245.71 Qualifications and Requirements for Home Services Workers

- a) Each agency shall ensure and shall maintain documentation in the home services worker's employee file that all persons employed or providing services as an in-home services worker, and who are not otherwise licensed, certified or registered in accordance with Illinois law to render this care, comply with the following conditions:
- 1) Does not have a disqualifying background check under the requirements of the Health Care Worker Background Check Act without a waiver;
 - 2) Has a copy of his or her Social Security card; and
 - 3) Has a visa or proof of citizenship in compliance with federal requirements for employment.
- b) Each placement agency shall require proof that the home service worker has completed a minimum of eight hours of training prior to his or her first assignment. The training shall include all of the items noted in subsection ~~(e)(4)~~.
- c) Each home services agency shall provide or arrange for a minimum of ~~ten~~^{eight} hours of training for each home services worker. ~~Five~~^{Four} hours of training shall be provided prior to the home services worker's first assignment, and the remaining ~~five~~^{four} hours shall be provided within the worker's first 30 days after employment. The training shall include the components of subsection ~~(e)(4)~~. The home services agency may accept proof that the worker has successfully completed a training program at or through another licensed home services agency within the prior year (previous 365 days) in lieu of providing or arranging for training, including a CNA who is approved on the Health Care Worker

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Registry. The agency shall give the home service worker, with proof of prior training within the prior year, and the CNA a competency evaluation prior to his or her first assignment. The home services agency shall not give a worker an assignment until the worker has first passed a competency evaluation given by the agency of the topics included in the first ~~five~~^{four} hours of training. The competency evaluation shall ensure that the home services worker is competent to provide the services required in his or her first assignment. The worker shall be similarly tested following the remaining ~~five~~^{four} hours of training.

- d) The placement agency may accept proof that the worker has successfully completed a training program at or through another licensed home services agency within the prior year (previous 365 days). The home services placement agency shall not give a worker an assignment until the worker has first passed a competency evaluation given by the agency. The competency evaluation shall ensure that the home services worker is competent to provide the services required in his or her assignment. The competency evaluation or proof of prior training at a licensed home services agency within the prior year shall address each of the ~~following~~ subjects outlined in subsection (e).÷

- e) Training for the home services worker shall address each of the following subjects below, in addition to the training requirements included in Section 245.40(c)(4)(A) through (P):

- 1) The employee's job responsibilities and limitations;
- 2) Communication skills relating to persons who are hard of hearing, have dementia, or have other special needs;
- 3) Observing, reporting and documenting client status and the care or service provided, including changes in functional ability and mental status demonstrated by the client;
- 4) Performing personal care tasks for clients, including: bathing; skin care; hair care; nail care; mouth care; shaving; dressing; feeding; assistance with ambulation; exercise and transfers; positioning; toileting; and medication reminding;

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- 5) Assisting in the use of specific adaptive equipment, such as a mechanical lifting device, if the worker will be working with clients who use the device;
- 6) Basic hygiene and basic infection prevention and control practices;
- 7) Maintaining a clean, safe and healthy environment;
- 8) Basic personal and environmental safety precautions;
- 9) Recognizing emergencies and initiating emergency procedures, including basic first aid and implementation of a client's emergency preparedness plan;
- 10) Confidentiality of client's personal, financial and health information;
- 11) Understanding dementia;
- 12) Problem solving skills to care for patients with dementia who exhibit challenging behavior;
- 13) Behaviors that would constitute abuse or neglect and the legal prohibitions against these behaviors, as well as knowledge and understanding of abuse and neglect prevention and reporting requirements; and
- 14) Any other task that the agency may choose to have the worker perform.

f)e) All home services workers shall complete a minimum of ~~ten~~eight hours of training during each year of employment to maintain placement availability, based on either a calendar year or an anniversary date basis, whichever is selected by the agency. The initial ~~ten~~eight hours of training required in subsection (c) shall satisfy the annual training requirement for the home services worker's first year of employment. The annual training can include self-study courses with demonstration of learned concepts that are applicable to the employee's responsibilities. Training shall include:

- 1) Promoting client dignity, independence, self-determination, privacy, choice and rights;

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- 2) Disaster procedures;
 - 3) Hygiene and infection control; ~~and~~
 - 4) Abuse and neglect prevention and reporting requirements; ~~and~~.
 - 5) Activities of daily living related to application of simple bandages, ambulation, bathing, application of compression stockings, feeding, application of prescription shampoo, nail care, client positioning, transfer of clients, and oxygen delivery systems (for home service workers assigned to work with clients who require oxygen delivery support) per Section 245.40(c)(4)(A) through (P).
- g) The agency shall have staff that provide training and supervision to home service workers on an ongoing basis to address requirements in Section 245.40(c)(4)(A) through (P). The individual shall:
- 1) Have a minimum of two years' experience working in a community home health or home service environment or facility based healthcare setting performing those tasks permitted by the Code, including assistance with activities of daily living(within the last five years); and
 - 2) Be available to home service workers to provide updated and continuing education related to staff responsibilities for client care as outlined in Section 245.40(c)(4)(A) through (P).
- hf) All training shall be documented with the date of the training; the length of time spent on each training topic; instructors and their qualifications; short description of content; and staff member's signature or electronic certificate with a date and time stamp indicating completion.

(Source: Amended at 46 Ill. Reg. 10410, effective May 31, 2022)

SUBPART D: CLIENT/PATIENT SERVICES

Section 245.210 Services – Home Services Agencies

- a) Agencies licensed as home services agencies shall provide non-medical services, which may be provided directly by agency staff or through a contractual purchase

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of services, that are intended to assist clients with activities of daily living. Services may include, but are not limited to, activity of daily living support, personal care, medication reminding, housekeeping services, personal laundry, cooking, shopping, assistance in getting to and from appointments, maintenance of household records, and companionship. Each agency shall maintain a listing of the types of services offered by the agency, and the scope of the work to be provided under each area, which the agency shall distribute to clients before contracting with the client, with the signed contract, and when changes occur.

- b) If the agency provides services under contractual arrangements with a third party, it shall have a written agreement that includes, but is not limited to, the following:
 - 1) A detailed description of the services to be provided;
 - 2) Provisions for adherence to all applicable agency policies and personnel requirements, including requirements for initial health evaluations and employee health policies, and criminal background checks if applicable;
 - 3) Designation of full responsibility for agency control over contracted services;
 - 4) Procedures for submitting clinical and progress notes;
 - 5) Charges for contracted services;
 - 6) A statement of responsibility of liability and insurance coverage (employment, workers' compensation) and taxes, including employment and Social Security taxes;
 - 7) The period of time the written agreement is in effect;
 - 8) Date and signatures of appropriate authorities; and
 - 9) Provisions for termination of services.
- c) When services are provided to clients by a home services agency, there shall be a written contractual agreement between the client and the agency that includes, but is not limited to:

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- 1) Indication and assurance of compliance by the agency with the requirements of the Act, including the Health Care Worker Background Check Act;
- 2) Identification of parties responsible for payment of employment taxes, Social Security taxes, and workers' compensation;
- 3) Information on the parties responsible for supervising workers, as well as hiring, firing and discipline of in-home services workers;
- 4) Identification of the charges to be paid, payment schedule, and to whom the client, or person acting on behalf of the client, is to make payments for services under the contract;
- 5) Time period for the contractual arrangement and conditions for termination of the contract; and
- 6) Contact information for the client to use in case of concerns, complaints, or questions on care to be provided.

d) **Acceptance of Clients.** Home Services Agencies shall develop and follow policies on acceptance and discharge of clients, which shall include, but not be limited to, the following:

- 1) Persons shall be accepted for service on the basis of their desire or need for assistance with household or personal support or companionship services. A home services agency shall not provide medical services that would be performed by an agency licensed as a home health agency or home nursing agency.
- 2) The agency may accept a client who requires complete repositioning and where the client is unable to assist either verbally, non-verbally (including non-verbal indications and cues), or through others (i.e., a bed-ridden client who requires complete assistance to reposition in bed every two hours with no ability to provide any verbal or non-verbal indications and cues that repositioning may be needed) only when the following conditions are met:

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- A) The home services worker shall have been trained in the indications of and the procedures for positioning and repositioning a client in the above situation;
- B) The client's representative shall be able to assist with the positioning or repositioning, either directly or by providing ongoing feedback, including indications of potential harm or discomfort, to the home services workers through either verbal or non-verbal indications and cues if the client representative is present when the position needs to be changed; and
- C) The agency shall have conducted a competency evaluation of the worker that confirms competency with the indications of and the procedures for positioning and repositioning a client in the above situation.
- 32) No person shall be refused services based on age, race, color, sex, marital status or national origin.
- 43) When services are terminated by the agency, the client is to be notified at least seven working days in advance of the date of termination, with a stated reason for the termination. This information shall be maintained in the client record. The seven-day notice requirement is not applicable in cases in which the worker's safety is at risk. In these cases, the agency may notify the client of termination of services and the reason for termination. Documentation of the risk to the provider shall be maintained in the client record.
- 54) The acceptance of the client for non-medical services shall be based on the following documented information, in consultation with the client and his or her appropriate family members or representative:
- A) Any functional limitations of the client and the relevance of the limitation to the services requested; and
- B) Any circumstances that may have an impact on activity or involvement by the client, such as basic information on medications being taken, treatments received, client's physical activity, diet and mental status in relation to the services requested.

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- e) Service Plan. The agency shall establish a plan for each client, in consultation with the client and his or her appropriate family members or representative, that outlines the services to be provided to the client. The plan shall address and include, but not be limited to:
- 1) The level, type, frequency and scope of services the client is receiving;
 - 2) Identification of any functional limitations of the client and the relevance of the limitation to the services to be provided;
 - 3) Information received from the client and his or her appropriate family members or representative, which shall be communicated to the home services worker, on circumstances that may have an impact on the client's activity or involvement, such as basic information on medications being taken, treatments received, client's physician, activity, diet and mental status.
 - 4) The plan will only include services within the scope of work for a home services worker as provided in Section 245.40(c)(4)(A) through (P).
- f) Physician signature is not required for the plan of service developed under this Section.
- g) The service plan shall be reviewed and revised as necessary, but not less than once annually.
- h) Client Records. A client record shall be maintained for each client receiving in-home services. The record shall contain:
- 1) Appropriate identifying information for the client, including the client's name, address and telephone numbers;
 - 2) The name, telephone numbers and address of the client's representative, if applicable;
 - 3) The name, telephone numbers and address of an individual or relative to be contacted in an emergency;

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- 4) The plan of services agreed to by the client and agency;
 - 5) A copy of the Client Home Care Services Agreement or Contract; and
 - 6) Documentation by the home services worker of each of the services provided at each visit.
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- i) Each agency shall have a written policy on records procedures and shall retain records for a minimum of two years beyond the last date of service provided. The agency may utilize hard copies or an electronic format. Each agency shall have written policies and procedures for records maintenance and shall retain records for a minimum of two years beyond the last date of service provided. The procedures may include that the agency will use and maintain faxed copies of records, rather than original records, provided that faxed copies shall be maintained on non-thermal paper and that the original records will be maintained for a period of two years by the originating entity.
 - j) Each agency shall have a written policy for protecting the confidentiality of patient records that explains the use of records, removal of records, and release of information.

(Source: Amended at 46 Ill. Reg. 10410, effective May 31, 2022)