

stock, members, partners, and all other persons having authority or responsibility for the operation of the agency;

(e) Proof of sufficient financial responsibility as may be necessary to operate the agency for at least 90 days;

(f) A description of the nature, type and scope of service to be provided, including geographic area to be served;

(g) Name, identification and qualifications of the administrator; and

(h) Name, identification, and qualifications of the substitute administrator required by s. HSS 133.05 (1) (e).

(4) **ISSUANCE OF LICENSE.** (a) Following receipt of a complete application for a new license or for a license change when there has been a change in the ownership of a home health agency, the department shall investigate the application to determine the applicant's ability to comply with this chapter.

(b) Within 90 days after receiving a complete application, the department shall either approve the application and issue a license or deny the application, except that if the department has not completed its investigation within that period of time or the agency under s. 141.15 (10), Stats., is temporarily unable to conform to all the rules in this chapter, the department may within the 90 day period issue a probationary license for a term of 90 days and may renew that license for additional 90-day terms up to one year pending completion of the department's investigation.

(c) The department may not charge an additional fee for the original regular license issued to a home health agency that has had a probationary license.

(5) **DURATION OF ORIGINAL REGULAR LICENSE.** The department shall issue an original regular license for a period of one year from the previous June 1.

(6) **RENEWAL OF LICENSE.** A regular license shall be renewed by the department for a term of one year provided that:

(a) Application for renewal is made upon forms provided by the department, and is received by the department at least 7 days before expiration of the current license.

(b) The application is accompanied by a fee equal to 0.15% of the gross annual income of the home health agency based on the agency's most recent annual fiscal report, with a maximum fee of \$1,000 and a minimum fee of \$100.

(c) The department approves an annual fiscal report prepared by the agency which shall be filed with the application for renewal of licensure. The application for renewal shall include a summary of the services provided by the agency, a description of the geographical area covered by the agency, a statistical breakdown of the number of patients served and the kinds of services provided, a description of significant staff changes and any other information required by the department.

(d) The licensee is found to be in substantial compliance with this chapter.

(7) **REPORT OF CHANGES.** (a) *Changes requiring notice.* The licensee shall, within 10 days, notify the department in writing of any changes in the services provided and any appointment or change of the administrator.

(b) *Changes requiring new application.* A new application under sub. (3) shall be submitted to the department within 10 working days when any of the following changes has occurred:

1. The corporate licensee has transferred 50% or more of the issued stock to another party or other parties;
2. The licensee has transferred ownership of 50% or more of the assets to another party or other parties;
3. There has been change in partners or partnership interests of 50% or greater in terms of capital or share of profits; or
4. The licensee has relinquished management of the agency.

(8) **DENIAL OR REVOCATION.** If at any time the department determines that there has been a substantial failure to comply with the requirements of this chapter, or that the license fee has not been paid, or that the information required by the department for licensure is not provided, it shall deny or revoke the license after providing notice to the licensee.

(9) **HEARINGS.** An applicant or home health agency adversely affected by any decision or action of the department may appeal that decision or action in accordance with the hearing rights and procedures set out in ch. 227, Stats. A request for a hearing shall be addressed to the department's office of administrative hearings.

Note: The mailing address of the office of administrative hearings is P.O. box 7875, Madison, WI 53707.

History: Cr. Register, May, 1984, No. 341, eff. 6-1-84; reprinted to correct printing error in (3) (e), Register, September, 1984, No. 345; r. and recr. (4) and (5), Register, November, 1985, No. 359, eff. 12-1-85.

HSS 133.04 Inspections. (1) **REGULAR SURVEYS.** The department may make any inspections and investigations it considers necessary, including review of clinical and administrative records, subject only to restrictions of law.

(2) **COMPLAINTS.** The department may investigate any complaints received by it concerning the operation or services of a home health agency.

(3) **PATIENT VISITS.** The department may contact patients of a home health agency as part of an inspection or investigation. A licensee shall provide the department a list of names, addresses and other identifying information of current and past patients as may be requested. The department may select the names of the patients to be visited and may visit these patients with their approval.

(4) **VIOLATIONS.** (a) *Notices of violation.* Upon determining that a home health agency is in violation of any requirement of this chapter, the department shall promptly serve a notice of violation upon the administrator or other designated agent of the home health agency. The notice shall specify the rule violated and state the facts which constitute the violation.

(b) *Plans of correction.* Within 10 working days of receipt of a notice of violation, the home health agency shall submit a plan of correction to the department, detailing how the agency plans to correct the violation or how the agency has already corrected the violation.

(c) *Imposing plans of correction.* If the home health agency fails to submit an acceptable plan of correction, the department may impose a plan with which the agency shall comply.

(d) *Verification.* The department shall verify that the home health agency has completed the plan of correction submitted under par. (b).

(5) **INTERFERENCE WITH INSPECTIONS.** Any interference with or refusal to allow any inspection or investigation under this chapter shall be grounds for denial or revocation of the license.

(6) **WAIVERS OR VARIANCES.** Upon application of a home health agency, the department may waive or vary any provision of this chapter if it finds that the waiver or variance will not adversely affect the health, safety or welfare of any patient.

History: Cr. Register, May, 1984, No. 341, eff. 6-1-84.

HSS 133.05 Governance (1) GOVERNING BODY. Each home health agency shall have a governing body which shall:

(a) Adopt governing policies in the form of by-laws, charter, written policies or other official means;

(b) Adopt a statement detailing the services to be provided;

(c) Oversee the management of the agency;

(d) Appoint an administrator; and

(e) Provide for a qualified substitute administrator to act in absence of the administrator.

(2) **PROFESSIONAL ADVISORY BODY.** (a) The home health agency shall establish an advisory group of at least one practicing physician and one registered nurse and appropriate representation from other professional disciplines. A majority of the members shall be persons who are neither owners nor employees of the agency.

(b) The advisory group shall:

1. Review annually and make recommendations to the governing body concerning the agency's scope of services offered, admission and discharge policies, medical supervision and plans of treatment, emergency care, clinical records, personnel qualifications, and program evaluation;

2. Meet at least annually to advise the agency on professional issues, participate in the evaluation of the agency's program and assist the agency in maintaining liaison with other health care providers in a community information program; and

3. Document all meetings by dated minutes.

History: Cr. Register, May, 1984, No. 341, eff. 6-1-84.

HSS 133.06 Administration. (1) ADMINISTRATOR. The home health agency shall be administered by an administrator who shall be a licensed

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physician, a registered nurse, or a person who has had training and experience in health care administration and at least one year of supervisory or administrative experience in home health care or related health programs.

(2) **DUTIES OF THE ADMINISTRATOR.** The administrator shall:

(a) Be knowledgeable about this chapter, and shall take all reasonable steps to ensure compliance of the agency with the requirements of this chapter;

(b) Administer the entire home health services of the agency; and

(c) Cooperate with the department in investigating compliance with this chapter.

(3) **PERSONNEL POLICIES.** The agency shall prepare in writing and review annually the following policies:

(a) A system for recruitment, orientation and continuing training of staff; and

(b) A plan for the evaluation of staff in the performance of duties.

(4) **EMPLOYEES.** (a) *Orientation.* Prior to beginning patient care, every employe shall be oriented to the agency and the job for which he or she is hired, with the orientation program to include:

1. Policies and objectives of the agency;

2. Information concerning specific job duties;

3. The functions of health personnel employed by the home health agency and how they relate to each other in providing services;

4. Information about other community agencies, including emergency medical services; and

5. Ethics, confidentiality of patient information, and patients' rights.

(b) *Scope of duties.* No employe may be assigned any duties for which they are not capable, as evidenced by training or possession of a license.

(c) *Evaluation.* Every employe shall be evaluated periodically for quality of performance and adherence to the agency's policies and this chapter, in accordance with the written plan of evaluation under sub. (3) (b). Evaluations shall be followed up with appropriate action.

(d) *Health.* 1. *Physical health of new employes.* Every employe having direct patient contact shall be certified in writing by a physician or physician's assistant as having been screened for tuberculosis infection and found free from clinically apparent communicable disease within 90 days before beginning work.

2. *TB retests.* Employes having direct patient contact shall be retested for tuberculosis infection based on the prevalence of tuberculosis in the community and the likelihood of exposure to tuberculosis.

3. *Disease surveillance.* Agencies shall develop and implement written policies for control of communicable diseases which take into consideration control procedures incorporated by reference in ch. HSS 145 and which ensure that employes with symptoms or signs of communicable

disease or infected skin lesions are not permitted to work unless authorized to do so by a physician or physician's assistant.

(e) *Continuing training.* A program of continuing training shall be provided to all employes as appropriate for the client population and the employe's duties.

(f) *Personnel records.* A separate up-to-date personnel record shall be maintained on each employe. The record shall include evidence of suitability for employment in the position to which the employe is assigned.

History: Cr. Register, May, 1984, No. 341, eff. 6-1-84.

HSS 133.07 Evaluation. (1) **REQUIREMENT.** An evaluation of the home health agency's total program shall be conducted at least once a year by the advisory group required by s. HSS 133.05 (2), home health agency staff and consumers.

(2) **METHOD OF EVALUATION.** The agency shall establish methods to determine whether the established programs and service policies are effective and whether service policies and procedures are substantially followed by agency staff. These methods shall include a review of a sample of patient records to determine whether services are being provided appropriately and the extent to which the needs of patients are met.

(3) **REPORTS.** Results of the evaluations shall be recorded in writing and reported to those responsible for the operation of the agency.

(4) **MANAGEMENT REVIEW.** The agency shall periodically review its policies and administrative practices to determine the extent to which they promote appropriate, adequate, effective and efficient patient care.

History: Cr. Register, May, 1984, No. 341, eff. 6-1-84.

HSS 133.08 Patient rights. (1) **SERVICE APPLICANT.** The home health agency shall promptly determine the applicant's suitability for services and, if the applicant is accepted, shall promptly provide services to the individual. If the applicant is found unsuitable for acceptance, the agency shall inform the applicant of other service providers in the area.

(2) **POLICIES.** A written statement of the rights of patients shall be made available to the patient or guardian, the spouse, parent, adult child or other relative, the sponsoring agency or representative payee and the public prior to the provision of any services and conclusion of a service agreement. Each patient receiving care from the agency shall have the following rights:

(a) To be fully informed, as evidenced by the patient's written acknowledgment prior to or at the time of acceptance, of these rights and of all rules and regulations governing patient responsibilities;

(b) To be fully informed, prior to or at the time of admission, of services available from the agency and of related charges, including any charges for services for which the patient or a private insurer may be responsible;

(c) To be informed of all changes in services and charges as they occur;

(d) To be fully informed of one's own health condition, unless medically contraindicated, and to be afforded the opportunity to participate in the planning of the home health services, including referral to health

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care institutions or other agencies, and to refuse to participate in experimental research;

(e) To refuse treatment to the extent permitted by law and to be informed of the medical consequences of such refusal;

(f) To confidential treatment of personal and medical records and to approve or refuse their release to any individual outside the agency, except in the case of transfer to another health facility, or as required by law or third-party payment contract;

(g) To be treated with consideration, respect and full recognition of dignity and individuality, including privacy in treatment and in care for personal needs; and

(h) To be taught, and have the family taught, the treatment required, so that the patient can, to the extent possible, help himself or herself, and the family or other party designated by the patient can understand and help the patient.

(3) **COMPLAINTS.** At the same time that the statement of patient rights is distributed under sub. (2), the home health agency shall provide the patient or guardian with a statement, provided by the department, setting forth the right to and procedure for registering complaints with the department.

History: Cr. Register, May, 1984, No. 341, eff. 6-1-84; reprinted to correct printing error in (2) (g), Register, September, 1984, No. 345.

HSS 133.09 Acceptance and discharge of patients. (1) **ACCEPTANCE OF PATIENTS.** A patient shall be accepted for service on the basis of a reasonable expectation that the patient's medical, nursing and social needs can be met adequately by the home health agency in the patient's place of residence. No patient may be provided services except under a plan of care established by a physician.

(2) **SERVICE AGREEMENT.** No home health agency may provide services until the patient or guardian acknowledges in writing receipt of a written agreement identifying services to be provided and fees to be charged for them.

(3) **DISCHARGE OF PATIENTS.** A patient shall be discharged from services of the home health agency upon the patient's request or upon the physician's decision, and may be discharged for non-payment of fees except that a county or city agency, as provided in s. 141.10, Stats., may not deny a patient necessary services because of the patient's inability to pay for them. The agency shall recommend discharge to the physician and patient if the patient does not require its services or requires services beyond the agency's capability.

History: Cr. Register, May, 1984, No. 341, eff. 6-1-84.

HSS 133.10 Services provided. (1) **REQUIRED SERVICES.** The home health agency shall directly provide at least part-time or intermittent nursing services and provide or arrange for home health aide services.

(2) **OPTIONAL SERVICES.** In addition to the services required under sub. (1), the agency may provide therapeutic services including, but not limited to, Register, November, 1985, No. 359

ited to, physical therapy, speech therapy, occupational therapy and medical social services.

History: Cr. Register, May, 1984, No. 341, eff. 6-1-84.

HSS 133.11 REFERRALS. When patients have needs which the home health agency cannot meet, the home health agency shall refer these patients to other agencies, social service organizations, or governmental units which are appropriate for unmet needs of the patients and which may be of assistance in meeting those needs. Referrals shall include referrals to meet the needs of patients for services at times before and after the normal business hours of the home health agency.

History: Cr. Register, May, 1984, No. 341, eff. 6-1-84.

HSS 133.12 Coordination with other providers. The home health agency shall coordinate its services with any other health or social service providers serving the patient.

History: Cr. Register, May, 1984, No. 341, eff. 6-1-84.

HSS 133.13 Emergency notification. Home health agency personnel shall promptly notify a patient's physician or other appropriate medical personnel and guardian, if any, of any significant changes observed or reported in the patient's condition.

History: Cr. Register, May, 1984, No. 341, eff. 6-1-84.

HSS 133.14 Skilled nursing services. (1) PROVISION OF SERVICES. Skilled nursing services shall be provided by or under the supervision of a registered nurse.

(2) DUTIES OF THE REGISTERED NURSE. The registered nurse shall:

- (a) Make the initial evaluation visit to the patient;
- (b) Regularly reevaluate the patient's needs;
- (c) Initiate the plan of treatment and necessary revisions;
- (d) Provide those services requiring substantial specialized care;
- (e) Initiate appropriate preventive and rehabilitative procedures;
- (f) Prepare clinical and progress notes;
- (g) Promptly inform the physician and other personnel participating in the patient's care of changes in the patient's condition and needs;
- (h) Arrange for counseling the patient and family in meeting related needs;
- (i) Participate in inservice programs for agency staff; and
- (j) Supervise and teach other personnel.

(3) SCOPE OF DUTIES. Nurses shall perform only those duties within the scope of their licensure.

(4) PRACTICAL NURSING. Nursing services not requiring a registered nurse may be provided by a licensed practical nurse under the supervision of a registered nurse.

(5) **COORDINATION OF SERVICES.** A registered nurse shall maintain overall responsibility for coordinating services provided to the patient by the agency.

History: Cr. Register, May, 1984, No. 341, eff. 6-1-84.

HSS 133.15 Therapy services. (1) **PROVISION OF SERVICES.** Physical therapy, occupational therapy, speech therapy, and other therapy services provided directly by the home health agency or arranged for under s. HSS 133.19, shall be given in accordance with the plan of treatment developed under s. HSS 133.20. Individuals providing these services shall perform the duties under s. HSS 133.14 (2) (a), (c), (f), (h) and (i).

(2) **PHYSICAL THERAPY.** If offered, physical therapy shall be provided by a physical therapist or by a qualified therapy assistant under the supervision of a qualified physical therapist.

(3) **OCCUPATIONAL THERAPY.** If offered, occupational therapy shall be provided by an occupational therapist or by a qualified therapy assistant under the supervision of a qualified occupational therapist.

(4) **SPEECH THERAPY.** If offered, speech therapy shall be provided by a speech pathologist or audiologist.

(5) **OTHER THERAPIES.** Therapies other than those under subs. (2), (3) and (4), shall be provided by persons qualified by training or by being licensed to perform the services.

History: Cr. Register, May, 1984, No. 341, eff. 6-1-84.

HSS 133.16 Medical social services. If offered, medical social services shall be provided by a social worker in accordance with the plan of treatment developed under s. HSS 133.20. Individuals providing these services shall perform the duties under s. HSS 133.14 (2) (c), (f), (h) and (i).

History: Cr. Register, May, 1984, No. 341, eff. 6-1-84.

HSS 133.17 Home health aide services. (1) **PROVISION OF SERVICES.** When a home health agency provides or arranges for home health aide services, the services shall be given in accordance with the plan of treatment provided for under s. HSS 133.20, and shall be supervised by a registered nurse or, when appropriate, by a therapist.

(2) **DUTIES.** Home health aide services may include, but are not limited to:

- (a) Assisting patients with care of mouth, skin and hair, and bathing;
- (b) Assisting patients into and out of bed and assisting with ambulation;
- (c) Assisting with prescribed exercises which patients and home health aides have been taught by appropriate health personnel;
- (d) Preparing meals and assisting patients with eating;
- (e) Household services essential to health care at home;
- (f) Assisting patients to bathroom or in using bedpan;
- (g) Assisting patients with self-administration of medications;
- (h) Reporting changes in the patient's condition and needs; and

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(i) Completing appropriate records.

(3) **ASSIGNMENTS.** Home health aides shall be assigned to specific patients by a registered nurse. Written instructions for patient care shall be prepared and updated for the aides at least each 60 days by a registered nurse or appropriate therapist, consistent with the plan of treatment under s. HSS 133.20. These instructions shall be reviewed by the immediate supervisors with their aides.

(4) **TRAINING OF AIDES.** (a) *Curriculum.* In addition to the orientation required by s. HSS 133.06 (4) (a), the agency shall ensure that all home health aides providing service have successfully completed a course of training covering at least the following subjects:

1. The role of the home health aide as a member of the health services team;
2. Instruction and supervised practice in in-home personal care of the sick, including personal hygiene and activities of daily living;
3. Principles of good nutrition and nutritional problems of the sick and elderly;
4. Preparation of meals, including special diets;
5. The needs and characteristics of the populations served, including the aged and disabled;
6. The emotional problems accompanying illness;
7. Principles and practices of maintaining a clean, healthy, and safe environment;
8. What, when and how to report to the supervisor; and
9. Record-keeping.

(b) *Training.* Training, if provided by the agency, shall be directed by a registered nurse. Physicians, nutritionists, physical therapists, medical social workers, and other health personnel shall provide relevant training when pertinent to the duties to be assigned.

History: Cr. Register, May, 1984, No. 341, eff. 6-1-84.

HSS 133.18 Supervisory visits. (1) **EVALUATIONS.** A registered nurse or other appropriate professional shall make a supervisory visit to each patient's residence as often as necessary, but at least once every 60 days, either to observe and assist when the home health aide is present or when the aide is absent, to assess relationships and determine whether goals are being met and whether home health services are still required.

(2) **SUPERVISION.** A registered nurse or other appropriate professional shall be available to the home health aides by telephone at all times and shall provide in-home supervision of home health aides as necessary.

History: Cr. Register, May, 1984, No. 341, eff. 6-1-84.

HSS 133.19 Services under contract. (1) **TERMS.** A written contract shall be required for health care services purchased on an hourly or per visit basis or by arrangement with another provider. The contract shall contain:

- (a) A statement that patients are accepted for care only by the primary home health agency;
- (b) A list of services to be provided;
- (c) Agreement to conform to all applicable agency policies including personnel qualifications;
- (d) A statement about the contractor's responsibility for participating in developing plans of treatment;
- (e) A statement concerning the manner in which services will be controlled, coordinated and evaluated by the primary agency; and
- (f) Procedures for submitting clinical and progress notes, scheduling visits, and undertaking periodic patient evaluation.

(2) **QUALIFICATIONS OF CONTRACTORS.** All providers of services under contract shall meet the same qualifications required of practitioners of the same service under the terms of this chapter.

History: Cr. Register, May, 1984, No. 341, eff. 6-1-84.

HSS 133.20 Plan of treatment. (1) **REQUIREMENT.** A plan of treatment, including physician's orders, shall be established for every patient accepted for care and shall be incorporated in the patient's medical record. An initial plan shall be developed within 72 hours of acceptance. The total plan of treatment shall be developed in consultation with the patient, home health agency staff, contractual providers, and the patient's physician and shall be signed by the physician within 20 working days following the patient's admission for care.

(2) **CONTENTS OF PLAN.** Each plan developed under sub. (1) shall include:

(a) Measurable time-specific goals, with benchmark dates for review; and

(b) The methods for delivering needed care, and an indication of which professional disciplines are responsible for delivering the care.

(3) **REVIEW OF PLAN.** The total plan of treatment shall be reviewed by the attending physician and appropriate agency personnel as often as required by the patient's condition, but no less often than every 60 days. The agency shall promptly notify the physician of any changes in the patient's condition that suggest a need to modify the plan of treatment.

(4) **PHYSICIAN'S ORDERS.** Drugs and treatment shall be administered by the agency staff only as ordered by the attending physician. The nurse or therapist shall immediately record and sign oral orders and shall obtain the physician's countersignature within 10 days.

History: Cr. Register, May, 1984, No. 341, eff. 6-1-84.

HSS 133.21 Medical records. (1) **REQUIREMENT.** A medical record shall be maintained on each patient and shall be completely and accurately documented, systematically organized and readily accessible to authorized personnel.

(2) **SECURITY.** Medical record information shall be safeguarded against loss, destruction or unauthorized use. Written procedures shall

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be established to control use and removal of records and to identify conditions for release of information.

Note: For information regarding confidentiality of patient health care records, see s. 146.82, Stats.

(3) **RETENTION.** For the purposes of this chapter medical records shall be retained for a minimum of 5 years following discharge. Arrangements shall be made for the storage and safekeeping of records if the agency goes out of business.

(4) **TRANSFER.** If a patient is transferred to another health facility or agency, a copy of the record or abstract shall accompany the patient.

(5) **CONTENT.** The medical record shall document the patient's condition, problems, progress and services rendered, and shall include:

(a) Patient identification information;

(b) Appropriate hospital information (discharge summary, diagnosis, current patient status, post-discharge plan of care);

(c) Patient evaluation and assessment;

(d) Plan of treatment;

(e) Physician's orders;

(f) Medication list and documentation of patient instructions;

(g) Progress notes, as frequently as necessary to document patient status and services provided;

(h) Summaries of reviews of the plan of treatment; and

(i) Discharge summary, completed within 15 days following discharge.

(6) **FORM OF ENTRIES.** All entries in the medical record shall be legible, permanently recorded, dated and authenticated with the name and title of the person making the entry.

(7) **ABBREVIATIONS.** Medical symbols and abbreviations may be used in medical records if approved by a written agency policy which defines the symbols and abbreviations and controls their use.

History: Cr. Register, May, 1984, No. 341, eff. 6-1-84.