

Chapter H 33

PROPRIETARY HOME HEALTH AGENCIES

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H 33.01 Statutory definitions. (1) A proprietary home health agency is a private proprietary organization (or a part of such organization) which:

- (a) Primarily provides skilled nursing and other therapeutic services;
- (b) Has policies established by a professional group (including at least one physician and at least one registered nurse) to govern services, and provides for supervision of these services by a physician or a registered nurse;
- (c) Maintains clinical records on all patients.

(2) Home health services means the following items and services furnished to an individual, who is under the care of a physician, by a home health agency or by others under arrangements with them made by such agency, under a plan (for furnishing such items and services to such individual) established and periodically reviewed by a physician which items and services are, except as provided in par. (f), provided on a visiting basis in a place of residence used as such individual's home:

- (a) Part-time or intermittent nursing care provided by or under the supervision of a registered professional nurse;
- (b) Physical, occupational or speech therapy;
- (c) Medical social services under the direction of a physician;
- (d) Medical supplies (other than drugs and biologicals), and the use of medical appliances, while under such a plan;
- (e) In the case of a home health agency which is affiliated or under common control with a hospital, medical services provided by an intern or resident-in-training of such hospital, under an approved teaching program of such hospital; and
- (f) Any of the foregoing items and services which are provided on an outpatient basis, under arrangements made by the home health agency, at a hospital or extended care facility, or at a rehabilitation center which meets such standards as may be prescribed by rule, and

1. The furnishing of which involves the use of equipment of such a nature that the items and services cannot readily be made available to the individual in such place of residence, or

2. Which are furnished at such facility while he is there to receive any such item or service, but not including transportation of the individual in connection with any such item or service.

(3) **PATIENT** means individuals cared for or treated by home health agencies.

(4) **BOARD** means the state board of health.

(5) **PROPRIETARY ORGANIZATION** is a private organization not exempt from federal income taxation under section 501 of the internal revenue code of 1954.

(6) **ADMINISTRATION.** The administration of this section shall be under the board which shall make or cause to be made such inspections and investigations as it deems necessary.

History: Cr. Register, April, 1967, No. 136, eff. 5-1-67.

H 33.02 Licensing. (1) PROCEDURE FOR LICENSURE AND REGISTRATION.

(a) Registration shall be in writing in such form and contain such information as the board requires.

(b) Application for a license shall be in writing upon forms provided by the board and shall contain such information as it requires.

(c) The board, or its designated representatives, shall make such inspections and investigations as are necessary to determine the conditions existing in each case and file written reports.

(2) **ISSUANCE OF LICENSE.** The board shall issue a license if the applicant is fit and qualified, and if the proprietary home health agency meets the requirements established herein.

(3) **RENEWAL.** A license, unless sooner suspended or revoked, shall be renewed annually on July 1 upon filing by the licensee, and approval by the board of an annual report and application for renewal on forms provided by the board.

(4) **LICENSE NONTRANSFERABLE.** Each license shall be issued only for the proprietary home health agency named in the application and shall not be transferable or assignable. If application for renewal is not so filed, such license is automatically cancelled as of the date of its expiration. Any license granted shall state such additional information and special limitations as the board, by rule, prescribes.

(5) **CONTENT OF LICENSE.** License shall state the name of person, persons, or organization to whom license is granted, date license is granted, expiration date and such other information as may be pertinent.

(6) **DENIAL, SUSPENSION OR REVOCATION OF LICENSE.** The board after notice to the applicant or licensee is authorized to deny, suspend or revoke a license in any case in which it finds that there has been a substantial failure to comply with the requirements of this section and the rules established hereunder.

(7) **FAILURE TO REGISTER OR OPERATING WITHOUT LICENSE.** It is unlawful for any person, acting jointly or severally with any other person, to conduct, maintain, operate, or permit to be maintained or operated, or to participate in the conducting, maintenance or operating of a home

health agency, unless, it is licensed as a proprietary home health agency by the board.

(8) **PROVISIONAL LICENSES.** A provisional license if approved by the board may be issued to any home health agency, the facilities of which are in use or needed for patients, but which is temporarily unable to conform to all the rules established under this section. A provisional license may not be issued for more than one year.

History: Cr. Register, April, 1967, No. 136, eff. 5-1-67.

H 33.03 Administration. (1) **LICENSEE.** (a) *Qualifications.* The licensee shall:

1. Have the ability and willingness to carry out the provisions of the rules for home health agencies in cooperation with the board.

2. Have sufficient financial resources to permit operation of the home health agency upon licensure for a period of 90 days without regard to income from patient fees.

3. Be a person of good moral character.

(b) *Responsibilities.* The licensee shall:

1. Notify the board 30 days in advance before closing the agency and the license shall be returned to the board.

2. Notify the state board of health 30 days in advance of any change of an administrator. In an emergency, immediate notification shall be sent to the board. The new administrator may serve on a temporary basis until his qualifications have been reviewed.

3. If the licensee is not the administrator he shall employ an administrator.

(2) **ADMINISTRATOR.** (a) *Qualifications.* The administrator shall:

1. Have good mental and physical health.

2. Have the physical and emotional capacity to administer a home health agency.

3. Have mature judgment and be emotionally adjusted to the problems encountered in the care of patients in their own homes.

4. Have the intellectual capacity, general and professional knowledge to operate a home health agency.

5. Be of good moral character.

6. Have demonstrated an interest in personal service and the welfare of others.

7. Shall be between the ages of 21-70 years and shall have education in professional nursing, preferably public health nursing, or in a profession with equivalent educational requirements or better.

8. Shall have 2 years' experience in a supervisory or administrative capacity preferably including or supplemented by experience in a facility or program providing health care to patients in their homes.

(b) *Responsibility.* 1. The administrator shall be familiar with the rules of the board and be responsible for maintaining them in the agency.

2. The administrator shall be responsible for the total operation of the agency.

3. The administrator shall be responsible for familiarizing the employees with the law and the rules of the board and shall have copies of the rules available for their use.

4. The administrator shall be responsible for the completion, keeping and submission of such reports and records as required by the board.

5. The administrator shall be responsible for policies that are written and available to staff as well as to the group of professional personnel and cover:

a. Wage scales, hours of work, vacation and sick leave.

b. All employees shall have a pre-employment physical examination which shall include a tuberculin skin test and/or a chest x-ray, serology and other appropriate tests. If the tuberculin skin test is positive, a 14 × 17 chest x-ray shall be taken. The pre-employment physical examination must have been completed within a period of 90 days before employment and include the above tests. A periodic physical examination is required at least every 2 years which shall also include the above tests.

c. A plan for orientation of all health personnel to the policies and objectives of the agency.

d. Periodic evaluation of employe performance.

e. Job descriptions for each category of health personnel which are specific and include the type of activity each may carry out.

f. Employee's personnel record. A separate personnel record shall be kept current on each employe. It shall include the following essential information: name and address of employe, social security number, date of birth, date of employment, name and address of nearest kin, job description, hours of work and wages, date of physical examination and chest x-ray, experience record, educational qualifications, reference, date of discharge and/or resignation, reason for discharge and/or resignation, and evaluation of employe performance.

6. The administrator shall make all of the data stated above, 5.a. through f., available to the board or its representative when the inspection visit is made.

7. The administrator or licensee shall, with initial application, and whenever requested otherwise, provide:

a. Evidence of present tax status of agency licensed.

b. Type of organization, articles of incorporation (if incorporated), current by-laws of organization, copies of contracts or agreements, credentials of special therapists, including registration or license numbers of registered and practical nurses and whether they are currently registered or licensed to practice.

c. Clearly defined statement of purposes of agency.

d. Description of governing and/or advisory body, and medical advisory committee. Include names and representation, number of meetings to be held annually or held during previous year, and objectives of each group or committee.

e. Copy of annual budget and financial report (at end of first fiscal year if a new agency).

f. A statistical report of services rendered during last fiscal year (or last month if a new agency).

History: Cr. Register, April, 1967, No. 136, eff. 5-1-67.

H 33.04 Agency supervision of nursing care. (1) If the administrator is not a registered professional nurse, the home health agency shall designate a professional nurse, preferably a P.H.N. to give, direct or supervise the nursing care in accordance with the orders of the physician responsible for the care of the patient and under a plan of treatment established by such physician. Such professional nurse shall have had at least 2 years of nursing experience, one year of which was in the capacity of head nurse, supervisor or administrator of a nursing service or a position with equivalent responsibility.

(2) Such supervising nurse shall be employed full time by the agency if she is the only registered professional nurse employed.

(3) The administrator or supervising nurse shall designate another professional nurse to be in charge of patient care during any short or prolonged absence of the supervising nurse due to days off, vacation, illness, or leaves of absence.

History: Cr. Register, April, 1967, No. 136, eff. 5-1-67.

H 33.05 Advisory group of professional personnel. Policies covering skilled nursing care and other therapeutic services, and the professional health aspects of other policies, are established with the approval of and subject to regular review by a group of professional personnel which includes a licensed physician and a registered professional nurse.

(1) **COMPOSITION OF GROUP.** (a) This group might be, for example:

1. An advisory committee to the agency's executive council or board of directors;

2. A subcommittee of such council or board;

3. Other similar arrangement.

(b) Some member of members of the professional group are persons not employed by the agency.

(c) It is preferable that the registered professional nurse member be a public health nurse.

(d) It is desirable for the group to include lay persons knowledgeable in health affairs and also to have a wide range of professional representatives such as medical social worker; nutritionist; speech, physical, and occupational therapists.

History: Cr. Register, April, 1967, No. 136, eff. 5-1-67.

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H 33.06 Evaluation. The agency has procedures which provide for systematic evaluation of its program at least once every 2 years.

(1) **METHOD OF PROGRAM EVALUATION.** (a) There are measures to determine whether the policies established with the approval of the group of professional personnel are followed in providing services. These should include a review of patient records on a sample basis in order to determine that services are being used appropriately and the extent to which the needs of the patients the agency serves are being met both quantitatively and qualitatively.

(b) There is a mechanism for reviewing the overall management aspects of its service to assure economy and efficiency of operation.

(c) Agency staff and/or its professional group may conduct the evaluation itself. Alternatively, the agency may seek the advice of persons or organizations outside the agency.

History: Cr. Register, April, 1967, No. 136, eff. 5-1-67.

H 33.07 Skilled nursing services. (1) **HOW PROVIDED.** Such service is provided by or under the supervision of registered professional nurses currently licensed in the state, preferably a public health nurse.

(2) **QUALIFICATIONS OF PROFESSIONAL NURSES.** (a) *Public health nurse—qualifications.* A public health nurse is currently registered to practice professional nursing in Wisconsin and has completed a baccalaureate degree program approved by the national league for nursing for public health nursing preparation or post-baccalaureate study which includes content approved by the national league for nursing for public health nursing preparation.

(b) *Registered professional nurse—qualifications.* A registered professional nurse is currently licensed by the state as a registered professional nurse and preferably has one year of experience as a professional nurse.

(3) **PROFESSIONAL NURSING SERVICE DUTIES.** Professional nursing services are services given in accordance with a physician's orders which require the competencies of a registered professional nurse, preferably a qualified public health nurse. Skilled nursing includes such duties as the following:

(a) Evaluates and regularly re-evaluates the nursing needs of the patient;

(b) Develops and implements the nursing care plan for the patient;

(c) Provides nursing services, treatments, and diagnostic and preventive procedures requiring substantial specialized skill;

(d) Initiates preventive and rehabilitative nursing procedures as appropriate for the patient's care and safety;

(e) Observes signs and symptoms and reports to the physician reactions to treatments, including drugs, and changes in the patient's physical or emotional condition;

(f) Teaches, supervises, and counsels the patient and family members regarding the nursing care needs and other related problems of the patient at home;

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(g) Supervises and trains other nursing service personnel.

(4) **TRAINED PRACTICAL NURSE—QUALIFICATIONS.** A practical nurse is currently licensed in Wisconsin and preferably has at least one year of nursing experience under the supervision of a registered professional nurse.

(5) **PRACTICAL NURSING—DUTIES.** Practical nursing services are given by a trained practical nurse working under the supervision of a registered professional nurse. Practical nursing includes such duties as the following:

(a) Observes, records, and reports to supervisor on the general physical and mental conditions of the patient;

(b) Administers prescribed simple medications, the dosage of which need not be calculated. Administers simple treatment on the specific order of the physician.

(c) Assists the physician and/or registered professional nurse in performing specialized procedures;

(d) Prepares equipment for treatments, including sterilization and observation of aseptic techniques;

(e) Assists the patient with activities of daily living and encourages appropriate selfcare.

(6) **EXTENSION OF PROFESSIONAL SERVICES.** The agency may use licensed practical nurses and trained home health aides to extend nursing services where adequate skilled nursing supervision is available.

History: Cr. Register, April, 1967, No. 136, eff. 5-1-67.

H 33.08 Other home health services. (1) ADDITIONAL THERAPEUTIC SERVICES. In addition to skilled nursing services, the agency must provide at least one other therapeutic service; i.e., physical, occupational or speech therapy, or medical social service.

(2) **QUALIFICATIONS OF SPECIAL THERAPEUTIC PERSONNEL.** (a) When an agency provides or arranges for, physical therapy, the therapist must be currently licensed to practice in the state of Wisconsin. When an agency provides or arranges for occupational therapy, the therapist must be currently registered by the American occupational therapy association. When an agency provides or arranges for a medical social worker, the medical social worker is a graduate of a school of social work accredited by the council on social work education and has had experience in a hospital out-patient clinic, medical rehabilitation or medical care program. When an agency provides or arranges for speech therapy, the speech therapist is certified by the American speech and hearing association or is a potential candidate for certification. This candidate must have submitted his transcript of academic credits to the American speech and hearing association. The association must have accepted the candidate for potential certification. He must also be in the process of accumulating the necessary supervised work experience for certification.

(b) When the services of aides to physical, speech and occupational therapists are utilized in providing home health services, they shall be trained and supervised by appropriate professional personnel.

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(3) **HOME HEALTH AIDE SERVICES.** When an agency provides or arranges for home health aide services, the aides are assigned because the patient needs personal care. The services are given under a physician's orders and are supervised by a registered professional nurse. When appropriate, supervision may be given by a physical, speech, or occupational therapist.

(a) *Personal care for patient.* The title used for this class of personnel varies among agencies but the duties the aides perform are essentially personal care for the patient:

1. Helping patient with bath, care of mouth, skin, and hair;
2. Helping patient to use bathroom or in using bed pan;
3. Helping patient in and out of bed, assisting with ambulation;
4. Helping patient with prescribed exercises which the patient and home health aide have been taught by appropriate professional personnel;
5. Assisting with medications, ordinarily self-administered, that have been specifically ordered by a physician;
6. Performing such incidental household services as are necessary to prevent or postpone institutionalization.

(4) **SELECTION OF HOME HEALTH AIDES.** The selection of each potential home health aide takes into account ability to read and write, to understand and carry out directions or instructions, and to record messages and keep simple records.

(a) *Recruitment policies and procedures.* Because home health aides may often be recruited from persons who have had little formal education and no health training, agencies need to establish and maintain specific policies concerning their selection. In addition to the capacities expressed in the condition, recruitment policies and procedures should take into account:

1. Emotional and mental maturity, and
2. Interest in and sympathetic attitude towards caring for the sick at home.

(5) **TRAINING OF HOME HEALTH AIDES.** (a) *Faculty for basic training.* Training in personal care services is given by a registered professional nurse (preferably a public health nurse). Physicians, nutritionists, physical therapists, medical social workers, and other health personnel are involved in appropriate aspects of the training program.

(b) *Basic training content.* The following topics suggest the appropriate content for the basic training:

1. The role of the home health aide as a member of the health service team.
2. Instruction and supervised practice in personal care services of the sick at home, 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. Information on the process of aging and behavior of the aged.

6. Information on the emotional problems accompanying illness.

7. Principles and practices of maintaining a clean, healthy, and safe environment.

8. What to report to the supervisor.

9. Record-keeping (when applicable).

(c) *Training—orientation.* Orientation of all home health aides to the agency's program should include:

1. Policies and objectives of the agency.

2. Information concerning the duties of a home health aide.

3. The functions of other health personnel employed by the agency and how they relate to each other in caring for the patient.

4. Information about other community agencies.

5. Ethics and confidentiality.

(d) *Training on the job.* In addition to basic training and orientation, the home health aide should receive on-the-job instruction in carrying out procedures, and continuing in-service training.

(6) **SUPERVISION OF HOME HEALTH AIDES.** The decision to assign a home health aide to a particular case is made in accordance with the plan of treatment. In each case a registered professional nurse decides which personal care services a particular home health aide should give. The home health aide is not permitted to decide by herself what personal care services she will give.

(a) *Assignment of home health aides.* In deciding whether to provide home health aide service and which aide to assign, account will be taken of:

1. Successful completion of basic training.

2. Patient's needs.

3. The abilities of specific aides.

4. The amount of supervision available.

5. What the family can do for the patient.

(b) *Supervision of home health aides.* The professional nurse supervisor should provide direct supervision as necessary and can be readily available at other times by telephone. The supervisor should be constantly evaluating the home health aide in terms of the aide's ability to carry out assigned duties, to relate well to the homebound patient, and to work effectively as a member of a team of health workers. When the home health aide carries out, with the patient, simple procedures as an exten-

sion of physical, speech, or occupational therapy, supervision is also provided by the appropriate professional therapist.

History: Cr. Register, April, 1967, No. 136, eff. 5-1-67.

H 33.09 Acceptance of patients. The home health agency has written policies to be followed in making decisions of the desirability and practicality of accepting patients for care. Such decisions are based on medical, nursing and social information provided by the physician responsible for the patient's care, institutional personnel, and staff of the home health agency.

(1) Considerations relevant to the acceptance of patients include:

(a) Adequacy and suitability of agency personnel and resources to provide the services required by the patient.

(b) Attitudes of patient and his family toward his care at home.

(c) Comparative benefit to the patient's health of care at home as distinguished from care in a hospital or extended care facility.

(d) Reasonable expectation that patient's medical, nursing, and social needs can be met adequately in his residence, including a plan to meet medical emergencies.

(e) Adequate physical facilities in the patient's residence for his proper care.

(f) Availability of family or substitute family member able and willing to participate in patient's care.

History: Cr. Register, April, 1967, No. 136, eff. 5-1-67.

H 33.10 Establishment and review of plan of treatment. A home health agency has established policies and procedures for assuring that services and items to be provided are specified under a plan of treatment established and regularly reviewed by the physician who is responsible for the care of the patient.

(1) **PLAN OF TREATMENT.** The original plan of treatment is signed by the physician who is responsible for the care of the patient and incorporated in the record maintained by the agency for the patient. The total plan is reviewed by the attending physician, in consultation with agency professional personnel at such intervals as the severity of the patient's illness requires but in any instance, at least once every 2 months. The professional registered nurse, physical, occupational, and speech therapists are expected to bring to the attention of the physician changes in the patient's condition which indicate the need for altering the treatment plan or for terminating services.

History: Cr. Register, April, 1967, No. 136, eff. 5-1-67.

H 33.11 Physician's original orders and changes in orders. Original orders of a physician and all changes in orders for the administration of dangerous drugs and narcotics are signed by the physician and incorporated in the patient record maintained by the agency. All other changes in orders are either signed by the physician or by a registered professional nurse in the agency if such changes are received verbally by her.

History: Cr. Register, April, 1967, No. 136, eff. 5-1-67.

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H 33.12 Clinical records. The home health agency maintains for each patient a clinical record which covers the services the agency provides directly and those provided through arrangements with another agency; and which contains pertinent past and current medical, nursing, social and other therapeutic information, including the plan of treatment.

(1) **PATIENT RECORD.** The kinds of information which the patient record should contain are:

(a) Admission data including:

1. Identifying data: name, address, date of birth, sex, agency case number if it uses one, social security number, and next of kin.

(b) Whether the home health services benefit is:

1. Post hospital;
2. Post extended care facility; or
3. Neither; and names of institutions and dates of discharge for 1. and 2.

(c) Date of admission for service.

(d) Referring physician.

(2) **CLINICAL NOTES.** (a) Clinical data including: 1. Diagnoses: All conditions which the patient has and which are relevant to the plan of treatment.

2. Nursing services: Level needed and frequency of visits (in agreement with the agency nursing staff); special care (dressing changes, catheter changes, etc.); observations, including specific observations to be brought to the immediate attention of the physician.

3. Drugs: Type, dose, and frequency of each drug; caution concerning special side effects, drug allergies; nonprescription remedies which are contraindicated, e.g., aspirin with dicoumarol therapy.

4. Diet: Regular or restricted.

5. Activity: Degree allowed, e.g., bedrest with bathroom privileges.

6. Rehabilitation plan: Activities of daily living, etc.

7. Occupational, speech and physical therapy: Specific instructions for each service needed.

8. Medical social services.

9. Home health aide services.

10. Medical supplies: Special dressings needed, oxygen, etc.

11. Medical appliances: Special devices needed, e.g., crutches, oxygen tent, etc.

(3) **DISCHARGE OF PATIENTS.** Before patients are discharged from a service or the home health agency, the case should be reviewed with the physician responsible for the patient's care.

(a) *Discharge notes.* When home health services are terminated, the record should show the date and reason for termination.

History: Cr. Register, April, 1967, No. 136, eff. 5-1-67.