

Kansas Administrative Regulations

Department of Health and Environment

Article 51.—Home Health Agency Licensure

28-51-100. Definitions.

In addition to the terms defined in K.S.A. 65-5101 and amendments thereto, each of the following terms, as used in this article of the department's regulations, shall have the meaning specified in this regulation:

(a) "Administrator" means an individual who is appointed by the governing body and is directly responsible for the management and day-to-day operations of a home health agency.

(b)(1) "Admission note" means a dated document after the initial assessment of a client or patient that is used to develop the plan of care for the client or patient and that specifies the following:

- (A) The relevant diagnoses;
- (B) the client's or patient's health history;
- (C) environmental, safety, and social factors of the client's or patient's home;
- (D) the client's or patient's nutritional requirements, medications, and treatments;
- (E) the client's or patient's functional status and abilities; and
- (F) the client's or patient's physical and mental levels of functioning.

(2)(A) For home health services, the admission note shall be completed by a registered nurse or physical therapist.

(B) For supportive care services, the admission note shall be completed by a manager.

(3) For HCBS through the home- and community-based services (HCBS) waiver program, the admission note shall be completed by a registered nurse or physical therapist.

(c) "After-hours" means the times, including weekends, holidays, and evenings, when the parent office is closed or no staff members are present.

(d) "Alternate administrator" means an individual appointed by the governing body or administrator who is responsible for the management and day-to-day operations of the home health agency in the absence of the administrator.

(e) "Attendant care services" has the meaning specified in K.S.A. 65-6201, and amendments thereto.

(f) "Attendant care worker" means an employee of a home health agency who provides attendant care services.

(g) "Bylaws" and "operating agreement" mean a set of rules governing a home health agency's operation that is adopted by a licensee. Bylaws or operating agreements establish the structure of the governing body and the home health agency and specify how business at the home health agency shall be conducted.

(h) "Change of ownership" means the sale or transfer of a home health agency, including any sale or transfer of 50 percent or more of the stock of a corporation.

(i) "Client" means an individual receiving only supportive care services from a home health agency.

(j) "Client record" means documentation including all of the following, for each client:

- (1) An admission note;
- (2) the plan of care;
- (3) any progress notes;
- (4) any record of communication concerning the client's status;
- (5) any supportive care services provided to the client; and
- (6) the discharge summary report.

(k) "Clinical manager" and "director of nursing" mean the individual responsible for the nursing services provided by a home health agency that provides home health services. If the administrator or alternate administrator is not a physician or registered nurse, the licensee shall employ, as the clinical manager or director of nursing, a registered nurse licensed in Kansas who has at least two years of nursing experience.

(l) "Clinical nurse specialist" means an individual licensed by the state board of nursing as an advanced practice registered nurse in the role of clinical nurse specialist.

(m) "Clinical record" means documentation including all the following, for each patient:

- (1) An admission note;
- (2) the plan of care;
- (3) any progress notes;
- (4) any record of communication concerning the patient's status or treatment; and
- (5) the discharge summary report.

(n) "Department" means department of health and environment.

(o) "Dietitian" means an individual who is licensed by KDADS. A nutritionist shall not be utilized in place of a dietitian.

(p)(1) "Direct supervision" means supervision that includes the following:

(A) Periodically providing supervision of each staff member while the staff member is providing home health services, HCBS, or supportive care services and obtaining feedback from clients or patients regarding the home health services, HCBS, or supportive care services provided by the staff member; and

(B) directly overseeing activities as they occur and providing constant direction, feedback, guidance, and assistance.

(2) Each individual providing direct supervision shall be on-call and shall be accessible for one-on-one consultation, training and instruction, and assistance, as needed.

(q) "Discharge summary report" means a concise written statement that meets one of the following conditions:

(1) For home health services and HCBS, the discharge summary report is signed by a qualified health professional and reflects the patient's treatment and response in accordance with the patient's plan of care and the final disposition of the patient at the time of discharge from the home health agency.

(2) For supportive care services, the discharge summary report is signed by a manager and reflects the treatment and response of the client in accordance with the client's plan of care and the final disposition of the client at the time of discharge.

(r) "Governing body" means the individual or individuals who comprise the legal administrative structure of a home health agency and direct how business shall be conducted.

(s) "HCBS" has the meaning specified in K.A.R. 129-6-34.

(t) "Home health aide trainee" means an individual who meets either of the following conditions:

(1) The individual has completed a 90-hour nurse aide course as specified in K.A.R. 28-39-165.

(2) The individual's training has been endorsed as specified in K.A.R. 28-51-115.

(u) "In-operation," when used to describe the status of a home health agency, means that the home health agency has provided home health services, HCBS, or supportive care services to at least five patients or clients in the past 12-month period and to at least one patient or client in the latest three-month period.

(v) "Inspection" means either an investigation in response to a complaint or an on-site survey of a home health agency by the department.

(w) "KDADS" means Kansas department for aging and disability services.

(x) "Licensed nursing experience" means employment as a registered nurse or licensed practical nurse.

(y) "Licensed practical nurse" means an individual who is licensed by the state board of nursing as a licensed practical nurse.

(z) "Licensee" means a person who has been issued a license by the department to operate a home health agency.

(aa) "Manager" means an individual who is employed by a home health agency that provides supportive care services and who meets the following requirements:

(1) Provides supervision and is available to supportive care workers for consultation at all times that supportive care services are provided; and

(2) has at least one year of experience providing home health services, HCBS, or supportive care services.

(bb) "Medication administration" means the provision of assistance to a patient in the ingestion, application, or inhalation of a medication according to the directions of either of the following:

(1) The attending physician, nurse practitioner, or clinical nurse specialist; or

(2) an individual who is licensed by the state board of healing arts as a physician's assistant and is authorized to provide assistance to a patient without direction or supervision in the scope of the individual's license.

(cc) "Nurse practitioner" means an individual licensed by the state board of nursing as an advanced practice registered nurse in the role of nurse practitioner.

(dd) "Occupational therapist" means an individual who is licensed by the state board of healing arts as an occupational therapist.

(ee) "Occupational therapy assistant" means an individual who is licensed by the state board of healing arts as an occupational therapy assistant.

(ff) "Office hours" means the times of the day and days of the week that a parent office is open and staffed to serve the public.

(gg) "On-call" means being available for consultation to the staff whenever home health services, HCBS, or supportive care services are provided.

(hh) "Parent office" means the main location or site from which a home health agency operates. Each parent office shall have a local street address with a local telephone number and shall be continuously staffed during posted and advertised office hours. The office hours shall be conspicuously posted for public view. No post office box shall be used as the location of a parent office.

(ii) "Patient" means an individual receiving home health services or HCBS from a home health agency.

(jj) "Person" means an individual, association, partnership, corporation, government, government subdivision, or other entity.

(kk) "Personal care" means attendant care services, as defined in K.S.A. 65-6201 and amendments thereto, provided to an individual to enable the individual to reside in that individual's home.

(ll) "Physical therapist" means an individual who is licensed by the state board of healing arts as a physical therapist.

(mm) "Physical therapist assistant" means an individual who is certified by the state board of healing arts as a physical therapist assistant.

(nn) "Physician" means an individual licensed to practice medicine and surgery by the state board of healing arts or by an adjoining state under the interstate medical licensure compact (IMLC).

(oo) "Physician assistant" means an individual licensed by the state board of healing arts as a physician assistant.

(pp) "Plan of care" means a written document developed and used by a home health agency specifying the needs of each prospective client or patient to assist the licensee in determining which home health services, supportive care services, or HCBS will be provided to the prospective client or patient.

(1) For home health services, a registered nurse or physical therapist shall develop each plan of care based on the patient's diagnosis and the assessment of the patient's immediate and long-range needs and resources. The plan of care shall be established in consultation with other qualified health professionals, as needed. If the plan of care includes home health services that, according to professional practice acts, require a physician's authorization, the plan of care shall be signed by a physician and shall be renewed every 60 days.

(2) For supportive care services, the plan of care shall be developed by a manager and shall be based on each client's status and the assessment of the client's immediate and long-range needs and resources.

(3) For HCBS, the plan of care shall be developed as specified by the HCBS waiver program requirements. The licensee shall reassess each patient's plan of care at least every 60 days to determine whether the HCBS are still adequate.

(qq) "Plan of correction" means a written document developed by a licensee and submitted to the department to address noncompliance found during an inspection.

(rr)(1) "Progress note" means a dated, written notation documenting a visit provided by a staff member of the home health agency that summarizes the facts about a client's or patient's treatment, response, and functional status during that visit. Each progress note shall include the following:

- (A) The name of the individual who provided the treatment;
- (B) the date and time when the treatment was provided;
- (C) the treatment that was received by the client or patient;
- (D) the client's or patient's response; and
- (E) the date when the next visit will occur and the treatment that will be provided.

(2) Each progress note shall be clear and specific and shall indicate the client's or patient's functional status and abilities compared to other visits. The client or patient shall sign the progress note to confirm receipt of the treatment.

(ss) "Qualified health professional" means a physician, a registered nurse, a physical therapist, an occupational therapist, a respiratory therapist, a speech therapist, a dietitian, or a social worker.

(tt) "Registered nurse" means an individual who is licensed by the state board of nursing as a registered professional nurse or an individual who has a multistate license as a registered nurse as specified in K.S.A. 65-1166, and amendments thereto. A registered nurse shall be responsible for the direction, oversight, and management of the nursing staff, including licensed practical nurses and home health aides.

(uu) "Respiratory therapist" means an individual who is licensed by the state board of healing arts as a respiratory therapist.

(vv) "Service area" means a geographic region within a 200-mile radius of a home health agency's parent office in which the home health agency is allowed to provide home health services, HCBS, or supportive care services to clients or patients.

(ww) "Set up" means to arrange medication for later medication administration according to instructions from a pharmacy, the individual prescribing the medication, or a licensed nurse.

(xx) "Significant health event" means any occurrence that affects the ability of an employee to perform the employee's job duties.

(yy) "Simulated laboratory" means an enclosed area that is in a school, adult care home, or other facility and that is similar to a home setting for training purposes. In a simulated laboratory, home health aide trainees practice and demonstrate basic home health aide skills while an instructor observes and evaluates the home health aide trainees.

(zz)(1) "Skilled care services" means a type of home health services. This term shall include the following:

(A) Wound care;

(B) the use of medical supplies, including drugs and biologicals prescribed by a physician;

(C) in-home transfusions; and

(D) home health services provided by any qualified health professional.

(2) This term shall not include the delivery of either durable medical equipment or medical supplies.

(aaa) "Social worker" means an individual who is licensed by the behavioral sciences regulatory board as a social worker.

(bbb) "Speech therapist" means an individual who is licensed by KDADS as a speech-language pathologist.

(ccc) "Supervision" means the authoritative procedural guidance that is given to a staff member.

(ddd) "Telehealth" means the use of information and communication technology while a patient is at one site and a qualified health professional is at another site so that clinical parameters and other clinical data can be sent to qualified health professionals overseeing the health care provided to the patient. This term is also known as "telemedicine," "telemonitoring," or "remote monitoring."

(eee) "Total unique patient and client count" means the number of separately identifiable patients and clients that a home health agency served in a licensure year. Each home health agency that did not operate in the previous year shall estimate the number of separately identifiable patients and clients that will be served in the one-year period following the date the application for a license is submitted. The total unique patient and client count shall not duplicate any patient or client who was provided home health services, HCBS, or supportive care services on separate occasions.

(Authorized by and implementing K.S.A. 65-5109; effective, T-86-23, July 1, 1985; amended May 1, 1987; amended Feb. 28, 1994; amended Dec. 29, 2003; amended Oct. 27, 2006; amended May 20, 2022.)

***** Authenticated Kansas Administrative Regulation *****