

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 662. HOME CARE AGENCIES**

"Unofficial Version"

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[Authority: Oklahoma State Board of Health; 63 O.S. Section 1-104 et seq.; and Title 63 O.S. Section 1-1960 et seq.]

[Source: Codified 6-27-94]

SUBCHAPTER 1. GENERAL PROVISIONS

Section

310:662-1-1. Purpose

310:662-1-2. Definitions

310:662-1-1. Purpose

The purpose of this Chapter is to establish the minimum criteria for the issuance, maintenance and renewal of a home care agency license and the procedure for enforcement thereto.

[Source: Added at 11 Ok Reg 3185, eff 6-27-94]

310:662-1-2. Definitions

The words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise.

"Act" means the Home Care Act, 63 O.S. Supp. 1996, §1-1960 et seq.

"Affiliated person" means:

(A) any officer, director or partner of the applicant,

(B) any person employed by the applicant as a general or key manager who directs the operations of the facility which is the subject of the application, and

(C) any person owning or controlling more than five percent (5%) of the applicant's debt or equity. [63 O.S. Supp. 1998, Section 1-1965]

"Autonomy" means capacity to be self-determining, to make choices in accord with one's own goals and values.

"Branch office" means a business location from which a home care agency located in Oklahoma provides service within a portion of the total geographic area served by the parent agency. Branch offices from out of state parent agencies shall be licensed as home care agencies as required by this Chapter. Branch offices from in state parent agencies may be licensed as a part of the parent agency. Each home care agency branch office shall operate under the same name(s) as the parent agency.

"Certified/accredited agency" means any home care agency located in Oklahoma which is certified or accredited by:

(A) Title XVIII or XIX of the federal Social Security Act;

(B) the Joint Commission on Accreditation of Healthcare Organizations/Home Care Accreditation

Services (JCAHO); or

(C) the Community Health Accreditation Program of the National League for Nursing (CHAP).

"Client" means the consumer/patient/individual who receives the services of a home care agency and/or a companion or sitter service.

"Client's representative" means the client's legal guardian or person authorized by the client or client's legal guardian to assist the client in receiving home care services.

"Coercion" means compelling, pressuring or otherwise improperly influencing the free will decisions made by a consumer(s) or a potential consumer(s) of home care services by an agency representative or affiliate. Coercive means include, but are not limited to, presentation of false and/or misleading information.

"Department" means the Oklahoma State Department of Health. [63 O.S. Supp. 1996, § 1-1961(3)]

"Evaluation" means documentation of a need for services based on the client self-report.

"Governing body" means the person(s) having ultimate responsibility, including fiscal and legal authority for the home care agency.

"Harassment" means repetitive, intimidating, or otherwise distressing contact directed at a specific consumer(s) or potential consumer(s) of home care by a specific home care agency seeking to recruit clients.

"Home care agency" means any sole proprietorship, partnership, association, corporation, or other organization which administers, offers, or provides home care services, for a fee or pursuant to a contract for such services, to clients in their place of residence. The term "home care agency" shall not include individuals who contract with the Department of Human Services to provide personal care services, provided such individuals shall not be exempt from certification as home health aides. [63 O.S. Supp. 1996, § 1-1961(4)]

"Home care agency administrator" means a person who operates, manages, or supervises, or is in charge of a home care agency; [63 O.S. Supp. 1996]

"Home care services" means skilled or personal care services provided to clients in their place of residence for a fee. [63 O.S. Supp. 1996, § 1-1961(5)]

"Home health aide" means an individual who provides personal care to clients in their temporary or permanent place of residence for a fee. [63 O.S. Supp. 1996, § 1-1961(6)]

"Individual Service Plan" means documentation by the individual responsible for supervision of the companion or sitter services, or a designee, of the services requested by and agreed to be provided for a client.

"Infectious wastes" means waste capable of producing an infectious disease because it contains pathogens of sufficient virulence and quantity so that exposure to the waste by a susceptible human host could result in an infectious disease.

"Licensed practical nurse" means a person currently licensed to practice practical nursing in Oklahoma.

"Nurse registry" means any person that procures, offers, promises, or attempts contracts for registered nurses, licensed practical nurses, home health aides, or other providers of personal care who are compensated by fees as independent contractors, for the provision of home care services.

"Parent agency" means that part of a home care agency which develops and maintains administrative and professional control of subunits and/or branch offices.

"Personal care" means assistance with dressing, bathing, ambulation, exercise or other personal needs. [63 O.S. Supp. 1996, § 1-1961(7)]

"Personal needs" means assistance with activities of daily living such as getting out of bed, ambulation, exercise, toileting, dressing, eating, or bathing. Personal needs do not include domestic or

maintenance services provided on a fee basis to maintain the home.

"Primary home care agency" means the agency that is responsible for the services furnished to clients and for implementation of the plan of care.

"Qualified therapist" means a trained respiratory therapist or technician, or a physical therapist, occupational therapist, or speech therapist who is currently licensed to practice their profession in Oklahoma.

"Qualified therapy assistant" means a physical therapy assistant or occupational therapy assistant who is currently licensed to assist physical therapists or occupational therapists in Oklahoma.

"Registered nurse" means a person currently licensed to practice registered nursing in Oklahoma.

"Sharps" means any discarded objects that can penetrate the skin including, but not limited to, hypodermic needles, syringes, lancet and scalpel blades. This definition includes broken glass or other sharp items that have come in contact with material defined as infectious wastes.

"Skilled care" means home care services performed on a regular basis by a trained Respiratory Therapist/Technician or by a person currently licensed by this State, including but not limited to a Licensed Practical Nurse, Registered Nurse, Physical Therapist, Occupational Therapist, Speech Therapist, or Social Worker. [63 O.S. Supp. 1996, § 1-1961(8)]

"Solicitation" means coercion or harassment of any person or contact with a patient knowingly being treated by another home care agency for the purpose of attempting to persuade the patient to change home care agencies.

"Subsidiary" means any person, firm, corporation or other legal entity which:

(A) controls or is controlled by the applicant,

(B) is controlled by an entity that also controls the applicant, or

(C) the applicant or an entity controlling the applicant has directly or indirectly the power to control. [63 O.S. Supp. 1996]

"Subunit" means a semi-autonomous organization that serves clients in a geographic area different from that of the parent agency. A subunit is required to independently meet requirements of this Chapter and shall be licensed separately because it is too far from the parent agency to share administration, supervision, and services on a daily basis.

[Source: Added at 11 Ok Reg 3185, eff 6-27-94; Amended at 14 Ok Reg 2111, eff 4-7-97 (emergency); Amended at 14 Ok Reg 2274, eff 6-12-97; Amended at 16 Ok Reg 3486, eff 7-30-99 (emergency); Amended at 17 Ok Reg 2064, eff 6-12-00; Amended at 24 Ok Reg 2005, eff 6-25-2007; Amended at 25 Ok Reg 2455, eff 7-11-2008]

SUBCHAPTER 2. LICENSES

Section

310:662-2-1. Licensure

310:662-2-1. Licensure

(a) **Base of operation.** Any home care agency providing home care services in Oklahoma shall operate from a place of business which is accessible to the public and physically located in Oklahoma. Staff providing services from each home care agency shall be supervised by personnel at that location.

(b) **Applicant.** Any person, corporation, partnership, association or other legal entity desiring to obtain a license to establish, or to obtain a renewal license to operate, a home care agency in this State shall make application to the State Department of Health in such form and accompanied by such information as the State Commissioner of Health shall prescribe. All applications shall include disclosure statements completed by the applicant which shall include, but not be limited to, the following information:

(1) The full name and address of the applicant, and all affiliated persons;

- (2) The full name and address of any legal entity in which the applicant holds a debt or equity interest of at least five percent (5%) or which is a parent company or subsidiary of the applicant;
 - (3) A description of any ongoing organizational relationships as they may affect operations within the state;
 - (4) The names, locations, and dates of ownership, operation, or management for all current and prior home care agencies owned, operated or managed in this State or in any other State by the applicant or by any affiliated persons;
 - (5) The name and location of the home care agency for which a license is sought;
 - (6) The full name and address of the applicant, and all affiliated persons, under whose ownership, operation, management, or supervision the home care agency will be conducted; and
 - (7) An affidavit attesting to the information provided.
- (c) **Initial applicant data.** Information supplied by initial applicants shall include, but not be limited to, the following information:
- (1) Projected number of visits or shifts per month for six (6) months beginning from the date of application.
 - (2) Evidence of staffing availability sufficient to cover projected visits/shifts.
 - (3) Evidence of financial solvency to include resources sufficient to ensure the agency's ability to provide adequate home care services. The agency shall have an annual operating budget which ensures sufficient resources to meet operating costs at all times and to maintain standards as required by this Chapter.
 - (4) If required by law, proof of business registration with the Secretary of State.
 - (5) Proof of liability insurance coverage of at least one hundred thousand dollars (\$100,000.00) per occurrence, three hundred thousand dollars (\$300,000.00) aggregate. Each agency shall maintain at least this level of coverage.
 - (6) Evidence of the applicant's prior business and professional experience in prior health care provider operations including, but not limited to, nursing homes, residential care homes, home care agencies, and hospices. The applicant shall disclose to the Department the compliance history of any person or persons having ownership, operational, management or supervisory authority in the agency. Compliance history disclosure shall include lawful orders of suspension, receivership, administrative penalty or sanction issued by the Department or by other administrative agencies in other states with similar responsibilities.
 - (7) Proof that the agency's administrator is currently certified by the Department as a home care agency administrator.
- (d) **Licensure fees.**
- (1) An application for an initial license to establish or operate a new home care agency or subunit shall be accompanied by a nonrefundable application fee of one thousand dollars-(\$1,000.00).
 - (2) A renewal application for an existing home care agency or subunit shall be accompanied by a nonrefundable licensing fee of five hundred dollars (\$500.00).
 - (3) An application for license, or renewal thereof, to establish or operate a home care agency branch office of an agency licensed in the State of Oklahoma shall be accompanied by a nonrefundable licensing fee of twenty-five dollars (\$25.00).
 - (4) Fees for renewal licenses prorated to expire on July 31 shall be based on the number of quarters [i.e. three (3) months] or portions thereof for the license. The fee for each quarter or portion thereof shall be one hundred twenty-five dollars (\$125.00) for each parent agency or subunit license and six dollars and twenty-five cents (\$6.25) for each branch license.
- (e) **Exemptions.** The provisions of the Act and promulgated rules shall not apply to:
- (1) *A person acting alone who provides services in the home of a relative, neighbor or friend.*

(2) *A person who provides maid services only.*

(3) *A nurse service or home aide service conducted by and for the adherents to any religious denomination, the tenets of which include reliance on spiritual means through prayer alone for healing.*

(4) *A person providing hospice services pursuant to the Oklahoma Hospice Licensing Act.*

(5) *A nurse-midwife. [63 O.S. Supp. 1996, § 1-1962(C)]*

(f) Transfer of ownership of a licensed agency.

(1) **Legal assignment.** The license for a home care agency is not transferable or assignable except a license may be transferred to any affiliated person, parent company or subsidiary of the applicant or legal entity which has an ongoing organizational relationship with the applicant. Proof of legal assignment with accompanying application for licensure shall be filed with the Department at the time of the change. There shall be no fee for legal assignment of an agency license.

(2) **Acquisition of a licensed agency.** If an entity is considering acquisition of a licensed agency, an application for license with a five hundred dollar (\$500.00) fee for the agency and twenty-five dollar (\$25.00) fee for each branch office operated by a parent agency shall be filed with the Department at least thirty (30) days prior to the effective date of the change. A copy of the executed sales agreement shall be provided to the Department.

(3) If a corporate licensee amends its articles of incorporation to revise its name, this subsection does not apply. The sale of stock of a corporate licensee does not cause this subsection to apply.

(4) No license shall be transferred from one location to another unless the Department is notified. If an agency is considering relocation, the agency shall notify the Department thirty (30) days prior to the intended relocation. The Department shall provide written notification to the agency amending the annual license to reflect the new location.

(5) Upon the effective date of a change of ownership or upon cessation of operation of an agency, the current license shall be mailed or returned to the Department. The agency shall advise the Department in writing at the time of cessation of operation where agency medical records shall be archived and how these records shall be accessed.

(g) Licensure issuance/renewal.

(1) A home care agency license shall be renewed annually. Each license shall expire on July 31 of each year.

(2) An initial license shall be issued for twelve (12) months. Initial licenses which do not expire on July 31 shall be renewed so that the renewal license shall expire on July 31. The fee for the renewal license following the issue of an initial license which does not expire on July 31 shall be prorated on a quarterly basis.

(3) Prior to license renewal the applicant shall submit proof of:

(A) Liability insurance coverage of at least one hundred thousand dollars (\$100,000.00) per occurrence, three hundred thousand dollars (\$300,000.00) aggregate.

(B) Proof that the agency's administrator is currently certified by the Department as home care agency administrators.

(4) A home care agency license shall be posted in a conspicuous place, open to the public, at the licensed premises.

(5) The license shall be issued only for the premises named in the application.

(h) Deadlines for applications. The license application shall be filed in accordance with the following deadlines.

(1) The application for an initial home care agency license shall be filed at least thirty (30) days before beginning operations.

(2) The application for an initial license, for a transfer of ownership or operation, shall be filed at

least thirty (30) days prior to the transfer. If the Department finds that an emergency exists which threatens the welfare of clients, the thirty (30) day advance filing notice may be waived.

(3) The application for renewal of a licensed existing home care agency shall be filed at least thirty (30) days prior to the expiration date of the license.

(4) An incomplete initial or renewal application received by the Department shall be summarily dismissed after thirty (30) days of applicant notification of an incomplete application. Thereafter, the applicant shall submit a new application and the initial or renewal fee.

[Source: Added at 14 Ok Reg 2111, eff 4-7-97 (emergency); Added at 14 Ok Reg 2274, eff 6-12-97; Amended at 16 Ok Reg 3486, eff 7-30-99 (emergency); Amended at 17 Ok Reg 2064, eff 6-12-00; Amended at 25 Ok Reg 2455, eff 7-11-2008]

SUBCHAPTER 3. ADMINISTRATION

Section

- 310:662-3-1. Licensure [AMENDED and RE-NUMBERED to 310:662-2-1]
- 310:662-3-2. Client rights and responsibilities
- 310:662-3-3. Standards of practice
- 310:662-3-3.1. Compliance with Federal, State and local laws
- 310:662-3-4. Organization
- 310:662-3-5. Clinical records
- 310:662-3-6. Client care policies

310:662-3-1. Licensure [Amended and re-numbered to 310:662-2-1]

[Source: Added at 11 Ok Reg 3185, eff 6-27-94; Amended at 11 Ok Reg 4641, eff 8-15-94 (emergency); Amended at 12 Ok Reg 3442, eff 5-10-95 (emergency); Amended at 12 Ok Reg 2789, eff 7-27-95; Amended at 14 Ok Reg 2111, eff 4-7-97 (emergency); Amended at 14 Ok Reg 2274, eff 6-12-97]

310:662-3-2. Client rights and responsibilities

(a) Every agency shall have a written statement of clients' rights and responsibilities governing agency services which shall be made available and explained to each client or client's representative. This information shall be provided verbally and in writing before or at admission, and documented in the client's record.

(b) The statement shall include but not be limited to:

(1) A description of available services, unit charges and billing process. Any changes in fees or billing shall be given to the client orally and in writing as soon as possible but no later than thirty (30) calendar days from the date the agency becomes aware of a change. Unit charge information shall be disclosed to the client even if the service is provided through third party payment.

(2) Information regarding the client's or client representative's right to participate in the planning of the care to be furnished, the disciplines that shall furnish care, the frequency of visits/hours proposed, the title of the person supervising the client's care and the manner in which that person may be contacted.

(3) The right of the client or client's representative to be advised in advance of any change in the plan of care.

(4) The responsibility of the client or client's representative to treat agency personnel with respect, to disclose pertinent health related information accurately, and to inform agency personnel when instructions to the client or client's representative cannot be understood or followed.

(5) An explanation to the client or client's representative of the confidential treatment of all client information retained in the agency and the requirement for written consent for release of information to persons not otherwise authorized by law to receive it.

- (6) The right of the client to have the client's property and person treated with respect.
- (7) An explanation of the agency's grievance procedure; the right of the client or client's representative to register a grievance with the agency without reprisal or discrimination from the agency, regarding treatment or care received.
- (8) Information to the client or client's representative that a complaint against the agency may be directed to the Department. The statement shall direct the client or representative to register complaints with the Oklahoma State Department of Health, 1000 N.E. Tenth, Oklahoma City, Oklahoma 73117-1299.

[Source: Added at 11 Ok Reg 3185, eff 6-27-94; Amended at 14 Ok Reg 2111, eff 4-7-97 (emergency); Amended at 14 Ok Reg 2274, eff 6-12-97]

310:662-3-3. Standards of practice

(a) A home care agency shall maintain the highest level of standards in its business practices. The governing body of each agency shall adopt written standards of practice, which shall be strictly adhered to by all employees, agency contractors and owners of the agency.

(b) At a minimum, every home health agency shall include the following items in the agency's standards of practice:

- (1) Neither the owner nor any home health agency employee or contractor shall knowingly mislead a client, family member, client's representative or caregiver concerning services, charges, or use of equipment.
- (2) Neither the owner nor any home care agency employee or contractor shall misuse or misappropriate any property belonging to any client, family member, client's representative or caregiver.
- (3) Neither the owner nor any home care agency employee or contractor shall knowingly and actively recruit a client under the care of another home care agency.
- (4) The home care agency shall accept client referrals in a professional manner with no remuneration provided to the referring party.
- (5) Solicitation of clients by coercion or harassment shall be prohibited.
- (6) No agency, employee of any agency, or agency contractor shall serve as the guardian of a client unless such home care provider is related to the client by blood or marriage and/or is otherwise eligible to serve as a guardian.
- (7) All home care services shall be provided in compliance with accepted standards of practice.

[Source: Added at 11 Ok Reg 3185, eff 6-27-94; Amended at 14 Ok Reg 2111, eff 4-7-97 (emergency); Amended at 14 Ok Reg 2274, eff 6-12-97; Amended at 25 Ok Reg 2455, eff 7-11-2008]

310:662-3-3.1. Compliance with Federal, State and local laws

The agency and its staff shall operate and furnish services in compliance with all applicable Federal, State, and local laws and regulations.

[Source: Added at 14 Ok Reg 2111, eff 4-7-97 (emergency); Added at 14 Ok Reg 2274, eff 6-12-97]

310:662-3-4. Organization

(a) **Governing body.** The home care agency shall have an organized governing body which is legally responsible for the conduct of the agency. The ownership of the agency shall be fully disclosed to the Department. Agency staff shall be currently licensed or registered in accordance with applicable laws of the State of Oklahoma. The governing body shall be responsible for periodic administrative and professional evaluations of the agency.

(b) **Financial.** Sufficient financial resources shall be maintained sufficient to ensure the agency's ability to provide adequate home care services. The agency shall have an annual operating budget

which ensures sufficient resources to meet operating costs at all times and to maintain the standards required by this Chapter.

(c) **Administrator.** The governing body shall be legally responsible for the appointment of a qualified administrator and the delegation of responsibility and authority. The administrator shall organize and direct the agency's ongoing functions, employ qualified personnel, ensure adequate staff in-service, continuing education, and evaluations. The administrator shall ensure the accuracy of public information materials and activities, and that agency practices are consistent with written agency policies. The administrator shall be properly certified as required by the Department. Proof of current certification for the administrator shall be posted in a conspicuous place at each licensed agency.

(d) **Supervising physician or nurse.** Each home care agency providing skilled care shall employ a physician or a qualified supervising registered nurse. An agency providing personal care only shall employ or contract with a supervising physician or registered nurse who shall be available to the agency to advise the client care staff whenever personal care is provided. Services of a supervising physician or registered nurse in an agency only providing personal care may be provided on an on-call basis. A physician or a qualified registered nurse alternate shall be designated in writing to serve in the supervising registered nurse's absence.

(e) **Personnel policies.** The agency shall implement and follow appropriate written policies. Personnel policies shall include at least the following:

- (1) Employment procedures.
- (2) Orientation of all personnel to the policies and objectives of the agency, and participation by all personnel in appropriate employee in-service programs.
- (3) Job descriptions (statement of those functions and responsibilities which constitute job requirements) and job qualifications (specific education and training necessary to perform the job).
- (4) Periodic evaluations of employee performance.
- (5) Provision for disciplinary action(s) and procedures.
- (6) Health screening requirements for staff with direct client contact including but not limited to initial and annual Tuberculin skin tests. Any employee with a proven history of a positive tuberculin skin test may be excluded from this requirement if the employee has had a documented negative chest x-ray and no symptoms suggestive of tuberculosis.

(f) **Personnel records.** Personnel records shall include, but not be limited to qualifications, employment history, records of orientation and in-service provided, verification that health screening was performed as required, performance evaluations, as required by policy, record of disciplinary actions and verification of current licensure/certification, if appropriate.

(g) **Contracted services.**

(1) If a home care agency contracts to provide home care services(s), there shall be a written agreement defining the nature and scope of services provided. The agreement shall include but not be limited to the following:

- (A) The services to be provided.
- (B) The manner in which services shall be coordinated, evaluated and supervised by the primary home care agency.
- (C) The process for development, review, and revision of the plan of care.
- (D) The process for scheduling of visits or hours.
- (E) The procedures for submitting clinical and/or progress notes or other entries to the clinical record which shall be maintained by the primary home care agency.

(2) Any home care agency providing home care service(s) on a contract basis shall require the contractor to provide verification of current licensure/certification of personnel as appropriate. Documentation of this verification shall be maintained in the home care agency.

(h) **Nurse registry.** A nurse registry which provides home care services shall function and be licensed as a home care agency.

[Source: Added at 11 Ok Reg 3185, 6-27-94; Amended at 11 Ok Reg 4641, eff 8-15-94 (emergency); Amended at 12 Ok Reg 3442, eff 5-10-95 (emergency); Amended at 12 Ok Reg 2789, eff 7-27-95; Amended at 14 Ok Reg 2111, eff 4-7-97 (emergency); Amended at 14 Ok Reg 2274, eff 6-12-97; Amended at 16 Ok Reg 3486, eff 7-30-99 (emergency); Amended at 17 Ok Reg 2064, eff 6-12-00]

310:662-3-5. Clinical records

(a) The agency shall establish and maintain a clinical record for each client receiving care and services. The record shall be complete, timely, accurately documented and readily accessible. Clinical records shall be kept confidential. The agency shall ensure confidentiality of client information in accordance with written policies and procedures. Records shall be stored in a locked area and only authorized personnel shall have access to the records.

(b) Clinical records are the property of the home care agency and may be released only upon the written consent of the client, the court appointed guardian, by a court order, or as otherwise authorized by law. Any person who has been a client of a home care agency shall be entitled to obtain copies of their clinical record as allowed by law. [76 O.S. 1991, §19]

(c) Clinical records shall be retained at least five (5) years beyond the date the client was last seen or longer as otherwise required by law.

(d) In addition to a plan of care, the clinical record shall contain:

- (1) Appropriate identifying information for the client, household members and/or client representative(s), including telephone numbers to be used in the event of an emergency.
- (2) Initial assessment including health history, and current findings.
- (3) A description of the client's functional limitations and activity restrictions, if any.
- (4) Documentation of any change in the client's condition.
- (5) Notes for each service provided including the date, service provided, and the name and title of the person providing the service and the person's signature.

(e) If skilled care is provided or if personal care is provided by an order of a physician, the clinical record shall also contain:

- (1) The name of the client's physician and telephone number.
- (2) Signed and dated clinical notes which accurately document services provided, treatments and/or medications administered and client response to the services provided.
- (3) Physician orders which shall be sent by the agency within ten (10) days to the ordering physician to be signed and returned in a timely manner.
- (4) Upon discharge, a summary of the services provided and the resulting status of the client at the time of discharge. A copy of the discharge summary shall be provided to the client's physician.

[Source: Added at 11 Ok Reg 3185, eff 6-27-94; Amended at 14 Ok Reg 2111, eff 4-7-97 (emergency); Amended at 14 Ok Reg 2274, eff 6-12-97]

310:662-3-6. Client care policies

(a) Each agency shall adopt, implement and enforce written client care policies, specific to, and consistent with the scope and range of client care services offered. Client care policies and client care practices shall be consistent with current standards of practice and shall be reviewed and revised as necessary.

(b) Client care policies shall include but not be limited to:

- (1) Infection control in the home care setting, including the prevention and spread of infectious and communicable diseases from agency personnel to clients;
- (2) Safety assessment and teaching on injury prevention in the home environment;

- (3) Management of emergency medical situations by home care staff in the home; and
- (4) Efforts to maximize client autonomy.
- (c) An agency providing home infusion therapy directly or under arrangement shall:
 - (1) Ensure the availability of written policies and procedures for all home infusion therapy;
 - (2) Maintain a written physician's order specific to home infusion therapy;
 - (3) Develop and adopt minimum competency requirements for nursing staff, and maintain documentation of individual proficiency/competence;
 - (4) Ensure twenty-four (24) hour per day availability of a registered nurse to provide in-home clinical assistance as needed, to clients receiving home infusion therapy;
 - (5) Assess the client and/or caregiver's abilities to safely comply with the plan of care;
 - (6) Provide for client and/or caregiver education as indicated; and
 - (7) Provide ongoing assessment of client and/or caregiver's compliance with therapy-related procedures, completed at intervals dependent on the condition of the client and mode of therapy.

[Source: Added at 14 Ok Reg 2111, eff 4-7-97 (emergency); Added at 14 Ok Reg 2274, eff 6-12-97]

SUBCHAPTER 5. CLIENT SERVICES

Section

- 310:662-5-1. Initiation of services
- 310:662-5-2. Plan of care
- 310:662-5-3. Services provided
- 310:662-5-3.1. Infectious waste disposal
- 310:662-5-4. Quality assessment and improvement

310:662-5-1. Initiation of services

(a) **In-home assessment.** The home care agency shall accept a client for services on the basis of a reasonable expectation that the client's needs can be met adequately in the client's residence. An initial assessment shall be performed in the client's residence by a physician, registered nurse or qualified therapist as indicated by the service to be provided.

(b) **Initial assessment.** The initial assessment shall occur prior to, or at the time that home care services are initially provided. The assessment shall determine whether the agency has the ability to provide the necessary services in the home.

(c) **In-home assessment - skilled care.** No in-home assessment of the need for skilled care shall be conducted by any agency, agency employee, or agency contractor unless and until the agency receives a physician's order to provide skilled care, or to conduct an in-home assessment of the need for skilled care. Skilled care shall not be provided by any agency, agency employee, or agency contractor unless and until the agency receives a physician's order to provide skilled care.

(d) **Solicitation, coercion, harassment.** No agency, agency employee, or agency contractor shall solicit, coerce or harass a consumer of home care services or an individual who may need home care services in order to initiate services with the agency.

[Source: Added at 11 Ok Reg 3185, eff 6-27-94; Amended at 12 Ok Reg 3442, eff 5-10-95 (emergency); Amended at 12 Ok Reg 2789, eff 7-27-95; Amended at 14 Ok Reg 2111, eff 4-7-97 (emergency); Amended at 14 Ok Reg 2274, 6-12-97]

310:662-5-2. Plan of care

(a) **Non-skilled care.** If only personal care is provided, the physician or registered nurse shall prepare a plan of care at the time of initial assessment. The plan of care shall be developed after consultation with the client and/or the client's representative and shall include potential services to be provided; the frequency of visits and/or hours of service; as well as identified problems, method of intervention, and

date of resolution. The plan of care for the client shall be communicated to the caregiver prior to or at the time of the delivery of non-skilled care. The plan of care shall be revised as necessary, but it shall be reviewed and updated by the registered nurse and all appropriate staff involved in care delivery at least every six (6) months.

(b) **Skilled care.** If skilled care is ordered, the order shall be sent by the agency within ten (10) days to the ordering physician to be signed and returned in a timely manner. The plan of care shall be developed at the time of admission in conjunction with all appropriate disciplines and shall cover all pertinent diagnoses, including mental status, types of services and equipment required, frequency of visits/hours, prognoses, functional limitations, activities permitted, nutritional requirements, medications and treatments, any safety measures to protect against injury, and any other appropriate items. Orders for therapy services shall include the specific procedures and modalities to be used and, as appropriate, the amount, frequency and duration. Services delivered shall be consistent with the services ordered in the plan of care. There shall be a continuing review of clinical records for each sixty-two (62) day period that a client receives home care services to determine adequacy of the plan of care and appropriateness of continuation of care.

[Source: Added at 11 Ok Reg 3185, eff 6-27-94; Amended at 12 Ok Reg 3442, eff 5-10-95 (emergency); Amended at 12 Ok Reg 2789, eff 7-27-95; Amended at 14 Ok Reg 2111, eff 4-7-97 (emergency); Amended at 14 Ok Reg 2274, eff 6-12-97]

310:662-5-3. Services provided

(a) **Available services.** Home care services provided by the agency shall be available on a visiting basis in the place of residence used as a client's home. If the client's home is a licensed facility, services provided by the licensed facility shall not be duplicated by the agency. Additional personal care services provided shall not be considered a duplicate service.

(b) **Coordination of services.** All personnel furnishing services shall maintain liaison to ensure their efforts are coordinated effectively, documented and support the objectives in the plan of care. If services are provided in a licensed facility, the agency shall advise facility staff of services provided to ensure care is coordinated. If an agency client is transferred to another health care provider or facility, a summary of the services provided and condition of the client shall be forwarded to the receiving provider/facility if requested.

(c) **Skilled nursing.** The agency shall furnish skilled nursing services by, or under the supervision of, a registered nurse and in accordance with the physician's orders.

(1) The duties of the registered nurse shall include, but not be limited to the following:

- (A) Performing the initial evaluation visit.
- (B) Regularly reevaluating the client's nursing needs.
- (C) Initiating the plan of care and necessary revisions.
- (D) Furnishing those services requiring specialized nursing skills.
- (E) Coordinating services.
- (F) Informing the physician and other personnel in a timely manner of changes in the client's condition and needs.
- (G) Supervision and teaching.

(2) Duties of the licensed practical nurse shall include, but not be limited to:

- (A) Furnishing services in accordance with agency policy.
- (B) Assisting the physician and registered nurse in performing specialized procedures.
- (C) Assisting the client in learning appropriate self-care techniques.

(d) **Therapy services.** Any therapy services offered by the home care agency shall be given by a qualified therapist or by a qualified therapy assistant under the supervision of a qualified therapist in accordance with the plan of care. The qualified therapist shall assist the physician in evaluating the level of function and participate in the development of the plan of care and any necessary revisions.

(e) **Medical social services.** If the agency furnishes medical social work services, those services shall be provided by a qualified social worker or by a qualified social work assistant under the supervision of a qualified social worker, in accordance with the plan of care. All providers of medical social services in Oklahoma shall be licensed if required and meet all defined education and experience criteria required by the Oklahoma State

Board of Licensed Social Workers.

(f) **Home health aide.** Home health aides shall be certified by the Department and placed on the Home Health Aide Registry maintained by the Department. All unlicensed, non-skilled providers of personal care to home care clients shall be certified by the Department as home health aides, regardless of the job title of the personal caregiver. Home health aides shall be in compliance with all requirements of the Act and the rules promulgated thereto. No home care agency shall employ or contract with any individual as a home health aide for more than four (4) months, on a full-time, temporary, per diem or other basis, unless such individual is a licensed health professional or unless such individual has satisfied the requirements for certification and placement on the home health aide registry maintained by the Department.

(g) **Supervision of services.** All personnel providing home care services shall have periodic evaluations of performance on file in agency records. Appropriate supervision shall be available during all hours services are provided.

(1) When home health aide or personal care services are provided in conjunction with a skilled service, a registered nurse shall make a supervisory visit to the client's home at least every sixty (60) days to assess relationships, client care and determine whether goals are met. The frequency of supervisory visits shall be increased if the acuity of the client's illness requires more frequent visits.

(2) If a client is receiving only skilled therapy services and home health aide or personal care services as an extension of the therapy services, a skilled therapist may make the supervisory visit at least every sixty (60) days, in lieu of a registered nurse. The frequency of these supervisory visits shall also be increased if the acuity of the client's illness requires more frequent visits.

(3) When only home health aide or personal care services are furnished to a client, a physician or a licensed nurse shall make a supervisory visit to the client's residence at least once every six (6) months. The frequency of supervisory visits shall be increased if the acuity of the client's illness requires more frequent visits.

(4) Services furnished by a qualified physical therapy assistant or qualified occupational therapy assistant shall be provided only under the supervision of a qualified physical or occupational therapist according to agency policy and consistent with current standards of practice.

[Source. Added at 11 Ok Reg 3185 eff 6-27-94; Amended at 12 Ok Reg 3442, eff 5-10-95 (emergency); Amended at 12 Ok Reg 2789, eff 7-27-95; Amended at 14 Ok Reg 2111, eff 4-7-97 (emergency); Amended at 14 Ok Reg 2274, eff 6-12-97]

310:662-5-3.1. Infectious waste disposal

(a) Every agency which generates infectious wastes in the course of providing home care services shall make appropriate provision for disposal of such materials.

(1) Sharps generated in a client's residence shall be packaged in rigid, leak proof, puncture resistant containers prior to disposal in regular household wastes or at an approved waste processing facility.

(2) Infectious wastes that are not sharps shall be disposed appropriately as required by agency policy, and Federal, state and local laws.

(b) At the time of admission, agency staff shall assess the client to determine if infectious wastes or sharps are generated in the home. If infectious wastes or sharps are generated, agency staff shall educate the client, the client's representative, or caregiver on proper disposal as required by agency policy, and Federal, state and local laws.

[Source: Added at 14 Ok Reg 2111, eff 4-7-97 (emergency); Added at 14 Ok Reg 2274, eff 6-12-97]

310:662-5-4. Quality assessment and improvement

(a) Each home care agency shall have an ongoing program approved by the governing body which assesses all services provided and requires quality improvements when indicated. The program shall be defined by written policies which shall stipulate methods for assessment, agency staff responsible for implementation and the mechanism of reporting assessments and any recommendations for improvement to the administrator and governing body.

(b) The program shall include but not be limited to the following: (1) Methods used to assess and improve all home care services provided, whether the services are provided directly or by contract. Methods for skilled care assessment shall be developed with input from each appropriate discipline providing services. Assessment methodology shall at least include client satisfaction surveys and sample clinical record reviews.

(2) The frequency that program activities shall be performed and agency staff responsible for the activity. Program assessments and any recommendations for improvement shall be documented and reported in writing at least each three (3) months to the administrator and the governing body. The program shall have methods to reassess improvements implemented to ensure that the quality of care has improved.

[Source: Added at 11 Ok Reg 3185, eff 6-27-94; Amended at 14 Ok Reg 2111, eff 4-7-97 (emergency); Amended at 14 Ok Reg 2274, eff 6-12-97]

SUBCHAPTER 7. ENFORCEMENT

Section

- 310:662-7-1. Inspections
- 310:662-7-2. Complaints and investigations
- 310:662-7-3. Penalties
- 310:662-7-4. Equitable relief
- 310:662-7-5. Adverse actions
- 310:662-7-6. Hearings
- 310:662-7-7. Appeals

310:662-7-1. Inspections

A certified/accredited agency shall not be subject to routine licensure inspections by the Department. Branch offices of certified/accredited agencies whose parent agency is not located in the State of Oklahoma shall not be considered to be certified/accredited, neither shall they be exempt from routine licensure inspections. The Department may inspect any agency at any time in order to determine compliance with the provisions of the Act or this Chapter. These inspections may be routine as in the case of a non-certified/accredited agency or based on a complaint received by the Department. The right of inspection shall also extend over any home care agency the Department has reason to believe is advertising or operating a home care service without a license.

[Source: Added at 11 Ok Reg 3185, eff 6-27-94]

310:662-7-2. Complaints and investigations

A complaint may be registered by any person who believes a home care program is operating contrary to the Act, or these rules, or is posing a serious threat to the health and welfare of a client in its care. The Department shall receive complaints verbally or in writing. If a name and address is furnished, the complainant as well as the home care agency shall be notified in writing of the findings. The complaint shall not be made public unless a completed investigation by the Department

substantiates the violations alleged in the complaint. Client names shall not be disclosed. Any home care agency with violations found on investigation shall be required to correct non-compliant items.

[Source: Added at 11 Ok Reg 3185, eff 6-27-94; Amended at 14 Ok Reg 2111, eff 4-7-97 (emergency); Amended at 14 Ok Reg 2274, eff 6-12-97]

310:662-7-3. Penalties

Any home care agency or home health aide covered by the Home Care Act that has been determined by the Department to have violated any provision of the Act or any rule promulgated thereto may be liable for an administrative penalty of not more than one hundred dollars (\$100.00) per violation for each day on which a violation occurs or continues. The maximum administrative penalty shall not exceed ten thousand dollars (\$10,000.00) for any related series of violations.

[Source: Added at 11 Ok Reg 3185, eff 6-27-94]

310:662-7-4. Equitable relief

The Department may bring an action in a court of competent jurisdiction for equitable relief to redress or restrain a violation by any person of a provision of the Home Care Act or any rule promulgated pursuant to the provisions of the Home Care Act. Said court shall have jurisdiction to determine said action, and to grant the necessary or appropriate relief, including but not limited to mandatory or prohibitive injunctive relief or interim equitable relief.

[Source: Added at 11 Ok Reg 3185, eff 6-27-94]

310:662-7-5. Adverse actions

The Department may deny, modify, deny renewal, suspend, or revoke the license of any agency that has demonstrated a history of non-compliance with the Act or this Chapter. Any agency found to be in substantial non-compliance shall be subject to these provisions immediately if client health and safety are in jeopardy. The issuance or renewal of a license after notice of a violation shall not constitute a waiver by the Department of its power to rely on the violation as the basis for subsequent revocation of a license or other enforcement action authorized by the Act or this Chapter.

[Source: Added at 11 Ok Reg 3185, eff 6-27-94; Amended at 14 Ok Reg 2111, eff 4-7-97 (emergency); Amended at 14 Ok Reg 2274, eff 6-12-97]

310:662-7-6. Hearings

Hearings shall be conducted according to the Administrative Procedures Act and Chapter 2 of this Title (310:002).

[Source: Added at 11 Ok Reg 3185, 6-27-94]

310:662-7-7. Appeals

A final order of the Department may be appealed to the District Court by any party directly affected or aggrieved by the order.

[Source: Added at 11 Ok Reg 3185, 6-27-94]

SUBCHAPTER 8. SITTER OR COMPANION SERVICES

310:662-8-1. Applicability

310:662-8-2. Licensure

310:662-8-3. Licensure issuance/renewal

310:662-8-4. Base of operation

310:662-8-5. Criminal background checks

310:662-8-6. Transfer of ownership of a licensed agency

- 310:662-8-7. Individual Service Plan
- 310:662-8-8. Complaint investigations
- 310:662-8-9. Mediation

310:662-8-1. Applicability

No public or private agency or person shall establish, conduct or maintain a sitter or companion service or hold itself out to the public as a sitter or companion service without first obtaining a license from the State Department of Health.

[Source: Added at 25 Ok Reg 2455, eff 7-11-2008]

310:662-8-2. Licensure

(a) **Application.** Any person, corporation, partnership, association or other legal entity desiring to obtain a license to establish, or to obtain a renewal license to operate, a companion or sitter service in this State shall make application to the State Department of Health in such form and accompanied by such information as the State Commissioner of Health shall prescribe. All applications shall include disclosure statements completed by the applicant which shall include, but not be limited to, the following information:

- (1) The full name and address of the applicant, and all affiliated persons;
- (2) The name and location of the companion or sitter service for which a license is sought;
- (3) The full name of the individual responsible for supervision of the companion or sitter services that meets the requirements of the Act and evidence of current licensure and/or training as appropriate;
- (4) Proof of participation in a workers' compensation insurance program for employees who are subject to pertinent labor laws. This insurance requirement shall remain in effect at all times while the service is licensed;
- (5) Proof of liability insurance coverage of at least one hundred thousand dollars (\$100,000.00) per occurrence, three hundred thousand dollars (\$300,000.00) aggregate. Each service shall maintain at least this level of coverage.
- (6) An affidavit attesting to the information provided.

(b) **Plan of delivery.** Each initial application shall be accompanied by a plan of delivery that describes the scope and range of companion or sitter service available to clients and their families as well as a description of the system of record keeping that meets the requirements specified in the Act. Each renewal application shall include written notification as to the changes in the plan of delivery.

(c) **License fees.**

- (1) An application for an initial license to establish or operate a new companion or sitter service shall be accompanied by a nonrefundable application fee of one thousand dollars (\$1000.00)
- (2) A renewal application for an existing companion or sitter service shall be accompanied by a nonrefundable licensing fee of five hundred dollars (\$500.00).
- (3) An application is not considered to be filed unless it is accompanied by the appropriate form and fee.

[Source: Added at 25 Ok Reg 2455, eff 7-11-2008]

310:662-8-3. Licensure issuance/renewal

(a) **Expiration.** Each license for a companion or sitter service shall expire one (1) year after issuance on the last day of the month of issuance unless suspended or revoked.

(b) **Deadlines for applications.** The license application shall be filed in accordance with the

following deadlines.

- (1) The application for a companion or sitter service license shall be filed at least thirty (30) days before beginning operations.
- (2) The application for an initial license, for a transfer of ownership or operation, shall be filed at least thirty (30) days prior to the transfer. If the Department finds that an emergency exists which threatens the welfare of clients, the thirty (30) day advance filing notice may be waived.
- (3) The application for renewal of a licensed existing sitter or companion service shall be filed at least thirty (30) days prior to the expiration date of the license.
- (4) An incomplete initial or renewal application received by the Department shall be summarily dismissed after thirty (30) days of applicant notification of an incomplete application. Thereafter, the applicant shall submit a new application and the initial or renewal fee.

[Source: Added at 25 Ok Reg 2455, eff 7-11-2008]

310:662-8-4. Base of operation

Each companion or sitter service shall operate from a place of business which is accessible to the public and physically located in Oklahoma. Staff providing services shall be supervised by personnel at that location. The license shall be issued only for the premises named in the application.

[Source: Added at 25 Ok Reg 2455, eff 7-11-2008]

310:662-8-5. Criminal background checks

Each companion or sitter service shall maintain a copy of each background check that is conducted on an agency employee to meet the requirements of the Act.

[Source: Added at 25 Ok Reg 2455, eff 7-11-2008]

310:662-8-6. Transfer of ownership of a licensed agency

(a) The license for a companion or sitter service is not transferable or assignable except a license may be transferred to any affiliated person, parent company or subsidiary of the applicant or legal entity which has an ongoing organizational relationship with the applicant. Proof of legal assignment with accompanying application for licensure shall be filed with the Department at the time of the change. There shall be no fee for legal assignment of a service license.

(b) If an entity is considering acquisition of a licensed agency, an application for license with a five hundred dollar (\$500.00) fee for the service shall be filed with the Department at least thirty (30) days prior to the effective date of the change. A copy of the executed sales agreement shall be provided to the Department.

(c) If a corporate licensee amends its articles of incorporation to revise its name, this subsection does not apply. The sale of stock of a corporate licensee does not cause this subsection to apply.

(d) No license shall be transferred from one location to another unless the Department is notified. If a service is considering relocation, the service shall notify the Department thirty (30) days prior to the intended relocation. The Department shall provide written notification to the service amending the annual license to reflect the new location.

(e) Upon the effective date of a change of ownership or upon cessation of operation of a service, the current license shall be mailed or returned to the Department. The service shall advise the Department in writing at the time of cessation of operation where service records shall be archived and how these records shall be accessed.

[Source: Added at 25 Ok Reg 2455, eff 7-11-2008]

310:662-8-7. Individual Service Plan

The individual responsible for supervision of the companion or sitter services shall prepare an

Individual Service Plan at the time of the initial evaluation. The Individual Service Plan shall be developed after consultation with the client and/or the client's representative and shall include potential services to be provided and the requested hours of service. The Individual Service Plan for the client shall be communicated to the caregiver prior to or at the time of the delivery of care. The Individual Service Plan shall be revised as necessary, but it shall be reviewed and updated by the individual responsible for supervision of the companion or sitter services at least every six (6) months.

[Source: Added at 25 Ok Reg 2455, eff 7-11-2008]

310:662-8-8. Complaint investigations

The Department shall investigate allegations of noncompliance with the requirements as specified in the Act.

[Source: Added at 25 Ok Reg 2455, eff 7-11-2008]

310:662-8-9. Mediation

(a) If a complaint investigation results in a finding of noncompliance against a licensed companion or sitter service, the licensed service may request review of the findings by a mediator in an effort to come to consensus on the facts of the investigation and to resolve any conflicts between the licensed service and the Department.

(b) Requests for mediation shall be made in writing and shall be received by the Department within ten days after the service has received the notice of noncompliance from the Department.

(c) Mediators shall be certified by the Alternative Dispute Resolution System through the Supreme Court of Oklahoma.

[Source: Added at 25 Ok Reg 2455, eff 7-11-2008]