

Title 11

Department of Health

Chapter 97

Home Health Agencies

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Historical Note: Chapter 97 of Title 11, Administrative Rules is based substantially upon Chapter 12D of the Public Health Regulations, Department of Health. [Eff. 11/4/69 ; R Feb. 01, 1982].

Sec. 11-97-1 Definitions as used in the chapter:

"Administrator" means the person responsible for the administration of the organization of which the home health agency is a part.

"Department" means the department of health, State of Hawaii.

"Director" means the director of health for the department of health, State of Hawaii, or a duly authorized agent.

"Homebound patient" means a person who because of a condition due to illness or injury is restricted in his ability to leave his place of residence except with the aid of supportive devices such as, crutches, canes, wheelchairs, walkers, use of special transportation, or the assistance of another person; or a person who has a condition which is such that leaving his home is medically contraindicated.

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"Home health agency" means a public or proprietary agency, a private nonprofit organization, or a subdivision of such agency or organization which is primarily engaged in providing direct or indirect skilled nursing services and other therapeutic services under a physician's direction to homebound patients on a part-time or intermittent basis (in a place used as the individual's home).

"Home health agency coordinator" means the person responsible and accountable for the functioning of the agency and the services provided. Preferably, the coordinator shall be a qualified public health nurse.

"Home health aide" means a person who has successfully completed the basic prescribed nurse aide course in the community college system; or an equivalent course, with additional training and supervision to prepare the person for this role.

"Licensed practical nurse" means an individual who has successfully completed a prescribed course as established for licensure as a licensed practical nurse in the State with a current valid license to practice in the State.

"Medical social worker" means a person who is a graduate of a school of social work accredited by the Council on Social Work Education and has had social work experience in either a hospital, outpatient medical rehabilitation, medical care, or mental health program.

"Occupational therapist" means an occupational therapist currently registered by the American Occupational Therapy Association.

"Occupational therapy assistant" means an occupational therapy assistant who has successfully completed a training course approved by the American Occupational Therapy Association and is certified by that body as a certified occupational therapy assistant.

"Physical therapist" means any physical therapist currently licensed to practice in the State as a physical therapist.

"Physical therapy assistant" means a person who has successfully completed a curriculum of study approved by  
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the American Physical Therapy Association leading to an associate of arts degree.

"Physician" means any physician or surgeon having a valid, unrevoked license from the State.

"Proprietary agency or organization" means a private agency or organization not exempt from income taxation under Section 501C of Internal Revenue Code of 1954.

"Public agency or private non-profit agency" means an agency exempt from income taxation under Section 501C of the Internal Revenue Code of 1954.

"Public health nurse" means any nurse licensed to practice professional nursing in the State who has completed a baccalaureate degree program approved by the National League for Nursing or graduated with a diploma from an accredited three-year nursing program supplemented by completion of an accredited university curriculum in public health nursing for which a certificate was awarded.

"Registered professional nurse" means a professional nurse currently licensed by the State as a registered professional nurse and has had at least one year's experience as a professional nurse.

"Speech therapist" means a person who has been granted a certificate of clinical competence in the appropriate area-speech pathology or audiology by the American Speech and Hearing Association; or meets the equivalent educational requirements and work experience necessary for such certificate; or has completed the academic and practicum requirements for certification and is in the process of accumulating the necessary supervised work experience required for certification.  
[Eff. Feb. 01, 1982 ] (Auth: HRS Sec. 321-11) (Imp: HRS Sec. 321-11)

Sec. 11-97-2 Legal authorization to operate. A home health agency and, in cases where the home health agency is a part of a larger organization, shall at all times comply with the laws of the State and shall, whenever required by the director, submit to the director evidence of compliance therewith. Such evidence shall include but not be limited to, copies of licenses, certificates, permits, or other

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authorizations required by the laws of the State of Hawaii.  
[Eff. Feb. 01, 1982 ] (Auth: HRS Sec. 321-11) (Imp: HRS Sec. 321-11)

Sec. 11-97-3 License (a) It is unlawful for any

person, to conduct, maintain, operate, or permit to be maintained or operated, or to participate in conducting, maintaining or operating a home health agency, unless the home health agency is licensed by the director.

(b) Any person, organization or corporation desiring to operate a home health agency shall make application to the director for a license on forms provided by the department. The director shall issue a license if the proposed home health agency meets the requirements under this chapter.

(c) A license, unless sooner suspended or revoked, shall be renewed every two years on date, or within 30 days thereafter. Application for renewal of license shall be made by the home health agency thirty days prior to the expiration date of the license. If an application for renewal is not filed, such license shall be automatically cancelled as of the expiration date.

(d) Each license shall be issued only for the home health agency named in the application and shall not be transferable nor assignable to any other agency or person.

(e) The license issued by the director shall be posted in a conspicuous place on the premises of the home health agency.

(f) A home health agency shall notify each patient concerned and the patient's physician directly at least thirty days prior to the voluntary surrender of its license or as directed under any order of revocation or suspension of license by the department. The license shall be promptly surrendered to the department when revoked, suspended or when the home health agency terminates services.

(g) Personnel service reports.

(1) The home health agency, at the time of initial application for license, shall submit on a form provided by the department

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a list of all personnel employed by the agency who provided service to patients at their homes;

(2) The home health agency shall submit quarterly a list of all changes in the employment status of such personnel; and

(3) Shall promptly notify the department of any changes in services provided.

(h) Inspection visits may be made to a home health agency at any time by authorized staff of the department. [Eff Feb. 01, 1982 ] (Auth: HRS Sec. 321-11) (Imp: HRS Sec. 321-11)

Sec. 11-97-4 Licensure revocation (a) The director, after due notice and an opportunity for a hearing, may suspend, revoke or refuse to issue or renew a license to any person because of failure to meet:

- (1) The requirements of this chapter; or
- (2) The conditions under which the license was issued.

(b) Any person affected by the director's decision for denial, suspension, or revocation, may appeal in accordance with the law. [Eff. Feb. 01, 1982 ] (Auth: HRS Sec. 321-11) (Imp: HRS Sec. 321-11)

Sec. 11-97-5 Policies and procedures (a) A home health agency, or parent organization, shall have an advisory committee responsible for making policies. An organizational structure chart shall be established indicating the home health agency within the parent structure.

(b) A satisfactory statement of policy of the home health agency, including the scope of services, the conditions under which they are offered, and the geographic coverage, shall be submitted to the department.

(c) Services provided by the home health agency shall be available to any qualified patient in a home setting in the geographic area of the home health agency regardless of race, color or national origin. Contracts with other §11-97-5

agencies to provide services shall be approved by authorized persons of agencies involved.

(d) The basic services of professional nursing shall be provided by the home health agency.

(e) Policies governing medical services shall be provided through an advisory committee which shall include a practicing physician and such other specialists whose background and experience relate to the programs and

activities of the agency. The committee may be an authorized existing committee. Minutes shall be kept of all meetings.

(f) Policies governing nursing and other therapeutic services shall be provided through an advisory committee which shall include a minimum of at least a practicing physician, a registered professional nurse with public health experience, a representative of other professional services such as dietary, occupational therapy, physical therapy, social work, or speech therapy; and community members who are aware of the needs of the community. The policies recommended by such committee shall meet current and acceptable professional practices. Minutes shall be kept of all meetings.

(g) Nursing and other therapeutic service policies.

- (1) Nursing and other therapeutic services provided shall be in accordance with the attending physician's written order and plan of treatment.
- (2) The nurses, therapists, social workers, aide or staff members rendering services shall meet qualifications prescribed in the definitions of this chapter.
- (3) A home health agency, in addition to providing nursing service, shall provide at least one other of the following therapeutic services: physical therapy, occupational therapy, speech, medical social services, or home health aide services.
- (4) When a home health agency does not provide all of the nursing or therapeutic services

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specified above, it shall include in its written policies which govern such services, a plan for identifying, utilizing and cooperating with other resources and facilities including community social agencies for the purpose of providing such services to patients. The home health agency may arrange for the services which it does not provide by written agreements with other licensed home health agencies or by contracts with nonparticipating providers who shall meet the standards of this chapter.

(5) A home health agency shall maintain complete statistical information reflecting each category of service rendered to patients and summarize such annually.

(h) Medical records.

(1) A clinical record for each patient shall be maintained on the basis of standards acceptable to the department;

(2) Nurses, therapists and/or workers responsible for specific professional aspects of care to a patient shall record in the patient's record information about the services rendered.

(i) Establishment and review plan of treatment.

(1) A home health agency shall establish policies and procedures for assuring that services and items to be provided are specified under the plan of treatment established and regularly reviewed by the physician who is responsible for the use of the patient.

(2) The original plan of treatment shall be signed by the physician responsible for the patient and incorporated into the patient's medical record.

(3) The total plan shall be reviewed by the

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attending physician, in consultation with the agency's professional personnel at such intervals as the severity of the patient's condition may require, but not less than once every two months.

(4) The professional staff shall bring to the attention of the patient's physician changes in the patient's condition which may indicate the need for altering the treatment plan or for the termination of service.

(5) Only the attending physician shall terminate services. Upon termination of services, the physician shall prepare a discharge summary which includes reasons for termination of

services, condition upon discharge and a summary of the course of the patient's illness.

- (6) Original orders of a physician and all changes in orders for the administration of dangerous drugs and narcotics shall be signed by the attending physician and incorporated into the patient's medical record.
  - (7) All other changes in orders shall be either signed by the physician or by the professional nurse of the home health agency, if such changes are received verbally by the nurse.
  - (8) When verbal orders are received by the professional nurse or other professional disciplines they shall be signed by the physician within a reasonable period of time.
- (j) Home health agency shall provide:
- (1) Written job descriptions which specify the qualifications and experience of each category of health personnel and the type of activity each category of health personnel may perform;

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- (2) Written personnel policies to each staff member, including but not limited to provisions concerning wage scales, hours of work, vacation and sick leaves, and use of car if provided, or mileage allowed if private transportation; and
- (3) A plan for a pre-employment and periodic medical examination, tuberculosis testing and/or chest x-ray and other appropriate tests and immunizations for all home health agency personnel

(k) Home health agency shall provide for all personnel rendering service to patients, a planned program of orientation to the agency's policies and objectives and a continuous inservice education program.

(l) Home health agency shall prepare an annual budget, satisfactory auditing manuals, annual financial reports, use



an accepted method of cost accounting to determine the cost per visit of each therapeutic service rendered, and prepare a schedule of patient fees.

(m) Maintenance of records and reports.

- (1) Clinical records, service reports, fiscal reports, job descriptions, personnel reports, personnel policies and rosters, cost accounting data, committee reports, statements of policies, and such other records and reports as may be required shall be kept on file in the agency's office.
- (2) When a home health agency is a subdivision of a parent agency or organization, the fiscal accounting system shall be maintained in such a method to permit the costs of the home health agency to be easily identifiable.
- (3) Home health agency shall keep confidential all medical, nursing, paramedical, therapeutical, personnel, and financial information relating to each patient and make such available only to authorized persons.

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(n) A home health agency shall provide for a systematic evaluation of its program and a periodic evaluation of employee performance on the basis of standards acceptable to the department. Evaluation of home health agency's program should be done at least once every two years. Method of program evaluation should include review of patients' records on a sample basis to determine that the services are being used appropriately, and the extent to which the needs of the patients are being met both qualitatively and quantitatively.

(o) The director may approve a modification of standards for a home health agency when exceptional circumstances warrant such modification.  
[Eff. Feb. 01, 1982 ] (Auth: HRS Sec. 321-11) (Imp: HRS Sec. 321-11)

Sec. 11-97-6 Administration and standards (a) The administrator of a home health agency shall be qualified by professional education, experience or the equivalent in the operation and provision of health care to patients.

(b) A home health agency shall have sufficient

financial resources to allow for operation of the home health agency under these requirements, for a period of 90 days without regard to income from patient fees; and shall have a coordinator who shall be responsible and accountable for the functioning of the agency and services provided. [Eff. Feb. 01, 1982 ] (Auth: HRS Sec. 321-11) (Imp: HRS Sec. 321-11)

Sec. 11-97-7 Penalty A person who violates any of the provisions of this chapter shall be fined not more than \$500.00, or imprisoned not more than one year or both. [Eff. Feb. 01, 1982 ] (Auth: HRS Sec. 321-11) (Imp: HRS Sec. 321-11)

Sec. 11-97-8 Validity. If any provisions of this chapter or the application thereof to any person or circumstances is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances, shall not be affected thereby. [Eff. Feb. 01, 1982 ] (Auth: HRS Sec. 321-11) (Imp: HRS Sec. 321-11)