

## **CHAPTER 23-17.3 HOME HEALTH AGENCY LICENSURE**

### **23-17.3-01. Definitions.**

In this chapter, unless the context and subject matter otherwise require:

1. "Clinical record" means a written account which covers the services the agency provides directly and those provided through arrangements with another agency which account contains pertinent past and current medical, nursing, social, and other therapeutic information, including the plan of treatment.
2. "Department" means the state department of health.
3. "Home health agency" means a public or private agency, organization, facility, or subdivision thereof which is engaged in providing home health services to individuals and families where they are presently residing for the purpose of preventing disease and promoting, maintaining, or restoring health or minimizing the effects of illness or disability.
4. "Home health aide" means an individual who renders personal related service under the supervision of a registered professional nurse.
5. "Home health services" means a broad range of health and social services furnished to individuals and families by a home health agency or by others under arrangements with the agency, in the places where the recipients are presently residing. Services must include the services of a currently licensed registered professional nurse and at least one other therapeutic service and may include additional support services. These services may only be provided with the approval of a licensed physician.
6. "Licensed practical nurse" means one who has met all legal requirements for licensure and holds a current license to practice in North Dakota pursuant to chapter 43-12.1.
7. "Nursing services" means those services pertaining to the preventive, curative, and restorative aspects of nursing care that are performed by or under the supervision of a registered professional nurse.
8. "Person" means an individual, firm, partnership, association, corporation, limited liability company, or any other entity, whether organized for profit or not.
9. "Physician" means any person currently licensed pursuant to chapter 43-17.
10. "Registered professional nurse" means a registered nurse as defined under chapter 43-12.1.
11. "Skilled nursing" means professional nursing services rendered by nurses licensed under chapter 43-12.1.
12. "Supportive services" includes the use of medical appliances; medical supplies, other than drugs and biologicals prescribed by a physician; the collection of blood and other samples for laboratory analysis; and nutritional guidance, homemaker, or companion services.
13. "Therapeutic services" means services which include:
  - a. Skilled nursing care.
  - b. Medical social services.
  - c. Home health aide services.
  - d. Physical, occupational, or speech therapy.
  - e. Respiratory therapy.

### **23-17.3-02. License required - Rules.**

A person may not conduct, maintain, or operate a home health agency without a license issued by the department. The department shall adopt rules for the application, issuance, and renewal of a license.

### **23-17.3-03. Certificate of need required.**

Repealed by S.L. 1995, ch. 254, § 6.

#### **23-17.3-04. Issuance and renewal of licenses - Evaluation.**

On receipt of an initial or renewal application, the department or its authorized agent shall evaluate the home health agency. If minimum standards described in section 23-17.3-05 are met, the department shall issue the license for renewal.

#### **23-17.3-05. Standards of licensure.**

1. Minimum standards which a home health agency must meet for licensure are:
  - a. The agency shall provide skilled nursing and at least one other therapeutic service, such as physical therapy, occupational therapy, speech therapy, medical social services, or home health aide services, on a regular basis.
  - b. The agency shall maintain personnel folders on all agency employees, which indicate that qualified personnel are available to render designated services. When hospital or long-term care personnel are utilized by the hospital or long-term care facility to treat agency patients during the normal working hours, the hospital's or facility's personnel folder meets this requirement for that facility's employees. Home health agencies that contract for staff to provide services shall maintain a current written agreement with personnel serving under that contract in the personnel folders maintained under this subsection.
  - c. The agency shall maintain plans of treatment, clinical notes, and other means to verify that services are actually provided and not merely listed as being offered.
  - d. The agency shall maintain full information in its files relating to ownership of the agency. If the agency is incorporated for profit, the files must contain names and addresses of the corporate officers and of each person having ten percent or greater interest in the ownership of the agency.
  - e. The agency shall have a supervising physician or a supervising registered professional nurse who is responsible for the direction, coordination, and general supervision of the therapeutic services provided by the agency and who is employed on a full-time basis. There must be supervision from a physician or registered professional nurse during all hours of operation.
  - f. If services are to be provided by arrangement with other agencies or organizations, the home health agency shall ensure that the other agencies or organizations furnish qualified and trained personnel.
  - g. If services are provided under written contracts between a home health agency and other agencies or other organizations, the home health agency shall have documentation which verifies that communications between the contractor and the staff of the agency are frequent, and that the home health agency has all information necessary to assure that the administrative responsibility for the care of patients rests with the home health agency.
  - h. The agency shall maintain clinical records on all patients to serve as documentation of the medical, nursing, and therapeutic care rendered to the patient and for communication between the physician and the agency.
  - i. The agency shall ensure that home health aides are properly trained and function under adequate supervision.
2. All phases of an agency's operation must be without discrimination against individuals or groups of individuals on the basis of race, creed, color, national origin, sex, or age.

#### **23-17.3-06. Advice and consultation.**

The department shall provide professional advice and consultation related to the quality of home health agency aspects of health care and services provided by the licensee.

#### **23-17.3-07. Denial, suspension, or revocation of license.**

The department may deny, suspend, or revoke a license for noncompliance with this chapter in accordance with the administrative hearing provisions of chapter 28-32.

**23-17.3-08. Rules - State department of health.**

The department shall adopt necessary rules relating to the home health agencies licensed pursuant to section 23-17.3-02, including rules governing:

1. Qualifications of professional and ancillary personnel in order to furnish adequately home health services.
2. Standards for the organization and quality of patient care.
3. Procedures for maintaining records.
4. Provision for contractual arrangements for professional and ancillary health services.
5. Procedures for application, issuance, and renewal of license.
6. Procedures for denial, suspension, or revocation of license.
7. Inspections of licensed home health agencies.

**23-17.3-09. Inspections - Required information.**

1. The department is authorized to conduct periodic inspections of the facilities of licensed home health agencies with respect to fitness and adequacy of equipment, personnel, rules and bylaws, standards of service and medical care, plans of treatment, records, and other standards of licensure.
2. Any home health agency which provides or makes available any home health services to the public in this state, in any organized program developed or rendered under its auspices or provided under contract with any other person, shall submit annually to the department a complete description of that home health agency's operation, including name, address, location, or principal place of business, ownership, identification of administrative personnel responsible for home health services, and the nature and extent of the programs. The department shall determine the form and content of the information compiled and the annual date for submission of information. The department shall make the information available to the appropriate governmental agencies of the state so as to make known the availability of home health services to provide data for planning and for health needs of the people of the state. The information must be available to the public and to the health systems agencies.

**23-17.3-10. Information confidential.**

Information received under this chapter by the state department of health, through inspection or otherwise, is confidential and may not be disclosed except:

1. In a proceeding involving the question of license;
2. In a judicial proceeding, upon a court order; or
3. To a health or social services agency with specific responsibility for a patient's care.