

CHAPTER 662. HOME CARE AGENCIES

SUBCHAPTER 2. LICENSES

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.*

(6) *An individual, agency or organization that contracts with the Oklahoma Health Care Authority to provide services under the Home- and Community-Based Waiver for persons with developmental disabilities or that contracts with the Department of Human Services to provide community services to persons with developmental disabilities; provided, that staff members and individuals providing the services shall receive a level of training, approved by the Department of Human Services, which meets or exceeds the level required pursuant to the Home Care Act. An individual, agency, or organization*

otherwise covered under the Home Care Act shall be exempt from the act only for those paraprofessional direct care services provided under contracts referenced in this paragraph;

(7) An individual, agency or organization that provides or supports the provision of personal care services to an individual who performs individual employer responsibilities of hiring, training, directing and managing a personal care attendant as part of the Oklahoma Health Care Authority Consumer-Directed Assistance Supports and Service (CD-PASS) waiver program. An individual, agency, or organization otherwise covered under the provisions of the Home Care Act shall be exempt from the act only for those paraprofessional direct care services provided under Oklahoma Health Care Authority contracts referenced in this paragraph, but shall not be exempt from the criminal history background check required under the Home Care Act and Title 63 O.S. § 1-1950 for other paraprofessional direct care service providers. A personal care attendant hired by a consumer under the CD-PASS program shall be exempt from certification as a home health aide, provided such personal care attendant receives the training required and approved by the Department of Human Services.

(8) An individual who only provides Medicaid home-and community-based care services pursuant to a contract with the Oklahoma Health Care Authority;

(9) An individual who:

(A) is employed by a licensed home care agency exclusively to provide personal care services in the home,

(B) has no convictions pursuant to a criminal history investigation as provided in Title 63 O.S. § 1-1950.1,

(C) is being continuously training by a registered nurse to provide care that is specific to the needs of the particular client receiving the care, and

(D) is supervised by a registered nurse via an on-site visit at least once every three 3 months or sooner if the client experiences a significant change in health condition including, but not limited to, a surgery or a hospital stay, and

(E) has demonstrated competency in a written training plan developed by a registered nurse employed by the home care agency that shall include, at a minimum, the following:

(i) observation, reporting, and documentation of client status and assistance or other services furnished,

(ii) maintenance of a clean, safe, and healthy environment,

(iii) recognizing an emergency and necessary emergency procedures,

(iv) safe techniques to provide assistance with bathing, grooming, and toileting,

(v) assistance with meal preparation and safe food handling and storage,

(vi) client rights and responsibilities and the need for respect for the client and for the privacy and property of the client, and

(vii) basic infection control practices to include, at a minimum, instruction in acceptable hand hygiene techniques and the application of standard precautions;

(10) *A home or facility approved and annually reviewed by the United States Department of Veterans Affairs as a medical foster home in which care is provided exclusively to three or fewer veterans; or*

(11) *A person qualified by the Department as a certified nurse aide pursuant to the provisions of Section 1-1951 of the Act. [63 O.S. § 1-1962]*

(f) Transfer of ownership of a licensed agency.

1. **Legal assignment.** The license for a home care agency is not transferrable 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 the 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 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: Amended and renumbered from 310:662-3-1 at 14 Ok Reg 2111, eff 4-7-97 (emergency); Amended and renumbered from 310:662-3-1 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 2443, eff 7-11-08; Amended at 42 Ok Reg, Number 22, effective 8-11-25]

SUBCHAPTER 3. ADMINISTRATION

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~~ 123 Robert S. Kerr Ave. Suite 1702, Oklahoma City, Oklahoma ~~73117-1299~~ 73102-6406.

[**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]