

Document: Emergency Rule, **Register Page Number:** 26 IR 2642

Source: May 1, 2003, Indiana Register, Volume 26, Number 8

Disclaimer: This document was created from the files used to produce the official CD-ROM Indiana Register. However, this document is unofficial.

**TITLE 410 INDIANA STATE DEPARTMENT OF
HEALTH**

LSA Document #03-87(E)

DIGEST

Temporarily modifies 410 IAC 17-10-1 governing the licensure of home health agencies. Modifications are made to the list of those persons who are not required to be licensed as home health agencies. Authority: IC 4-22-2-37.1. Effective April 10, 2003.

SECTION 1. (a) No home health agency shall be opened, operated, managed, maintained, or otherwise conduct business without a license issued by the department.

(b) A license is required for any home health agency providing care in Indiana where the parent agency is located in a state other than Indiana. The home health agency must be authorized by the secretary of state to conduct business in Indiana and have a branch office located in Indiana.

(c) Application for a license to operate a home health agency shall be made on a form provided by the department and shall be accompanied by a nonrefundable fee of one hundred dollars (\$100).

(d) Disclosure of ownership and management information must be made to the department at the time of the home health agency's initial request for licensure, for each survey, and at the time of any change in ownership or management. The disclosure must include the following:

- (1) The name and address of all persons having at least five percent (5%) ownership or controlling interest in the home health agency.
- (2) The name and address of each person who is an officer, a director, a managing agent, or a managing employee of the home health agency.
- (3) The name and address of the corporation, association, or other company that is responsible for the management of the home health agency, and the name and address of the chief executive officer and the chairman or equivalent position of the governing body of that corporation, association, or other legal entity responsible for the management of the home health agency.

(e) After receiving a completed application, the nonrefundable fee required by subsection (c) of this rule, and disclosure of ownership and management information, the department may issue a letter of approval for operating a home health agency for a period of up to ninety (90) days pending an on-site inspection. In determining whether to issue the letter of approval, the department shall consider the following factors:

- (1) Whether the department has filed an action against an agency owned or operated by the applicant that resulted in:
 - (A) the revocation of a license;
 - (B) the denial or renewal of a license;
 - (C) the issuance or renewal of a probationary license; or
 - (D) the payment of a civil penalty.
- (2) Whether the department has issued an order against an agency owned or operated by the applicant.
- (3) Whether an agency owned or operated by the applicant has surrendered its license to the department.
- (4) Whether any injunction has been issued against an agency owned or operated by the applicant; and
- (5) Whether an agency owned or operated by the applicant has operated in substantial violation of this rule or any other law governing home health agencies at any time within two (2) years immediately preceding the date that the applicant applied for a license.

(f) The department may extend this ninety (90) day period for a total of one hundred twenty (120) days in fifteen (15) day increments. Such decision to grant an extension shall take into consideration the health, safety, and welfare of the citizens the home

health agency serves and the individual circumstances warranting the need for the extension. The home health agency must provide the service(s) that have been specified on the application prior to the inspection and must have a minimum of three (3) patients for record review. Record review may consist of both open and closed patient files.

(g) In determining whether to issue the initial license to operate a home health agency, the department may consider the factors described under subsection (e) of this rule and the results of the initial survey.

(h) The license shall relate back to and reflect the date of the first day of the ninety (90) day letter issued by the department.

(i) In determining whether to renew a license to operate a home health agency, the department may consider the factors described under subsection (e) of this rule and any actions pending against the home health agency.

(j) In conducting a survey, a surveyor shall receive copies of any and all documents necessary to make a determination of compliance. The surveyor may make copies with permission of the home health agency, or supervise any copying process to ensure that photocopies are true and accurate. At the sole discretion of the department and for good cause shown, the home health agency may be granted up to twenty-four (24) hours to produce documents requested by the surveyor.

(k) A home health agency may apply to provide a service that was not listed in its application or renewal application by notifying the department in writing of the new service, the date the service is intended to be offered, and all supporting documentation that shows the home health agency is qualified to provide the additional service. Such documentation includes, but is not limited to, the following:

- (1) Personnel qualifications and licensing.
- (2) Limited criminal history from the Indiana central repository established by IC 5-2-5.
- (3) Procedures for the supervision of personnel.
- (4) Contracts between the home health agency and any person offering the new service.
- (5) Records of physical exams showing that personnel are free of communicable disease. In the event the initial information submitted is not sufficient for the department to determine the home health agency's compliance regarding the new service, the department will inform the home health agency of the additional documents required. A home health agency may not offer additional services until it has received approval from the department to do so.

(l) The following are not required to be licensed as a home health agency:

- (1) A physician licensed under IC 25-22.5.
- (2) An individual whose permanent residence is in the patient's residence or who is a member of the patient's immediate family.
- (3) Incidental services provided by licensed health facilities to their patients.
- (4) An employee of a person holding a license under IC 16-27-1 who provides home health services only as an employee of the licensed person.
- (5) A local health department established under IC 16-20.
- (6) A health care professional who provides one (1) health service through a contract with a person licensed under IC 16-27-1.
- (7) A durable medical equipment supply company that furnishes equipment but provides no home health services to persons in their homes.
- (8) A drugstore or wholesale medical supply company that furnishes no home health services to persons in their home.
- (9) A volunteer who provides home health aide services without compensation.
- (10) An individual health care professional who provides professional services to a patient in the temporary or permanent residence of the patient.
- (11) An entity does not need a home health license to provide early intervention services (as defined in IC 12-17-15-3) to a child pursuant to a state program funded by the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).
- (12) An entity approved by the bureau of developmental disabilities services as a provider of services subject to family and social services administration regulation pursuant to 460 IAC 6 and who serves only individuals with developmental disabilities placed pursuant to IC 12-11-2.1-4.**

(m) Except as provided in 410 IAC 17-11-5, each license shall be for a term of one (1) year and shall expire one (1) year from the date of issuance. The licensee shall notify the department in writing thirty (30) days in advance of closing or selling the home health agency.

(n) Each license shall be issued only for the home health agency named in the application and shall not be transferred or assigned. Upon sale, assignment, lease, or other transfer, voluntary or involuntary, including those transfers that qualify as changes of ownership, a new owner or person in interest shall obtain a license from the department prior to maintaining, operating, or conducting a home health agency.

(o) The licensee shall submit an annual activity report to the department on a form provided by the department.

(p) Surveys may be, but are not limited to, the following:

(1) Unannounced surveys conducted annually for compliance.

(2) Post survey revisits conducted based on a home health agency's plan of correction and for the purpose of determining compliance.

(3) Patient care complaints.

SECTION 2. SECTION 1 of this document expires July 9, 2003.

LSA Document #03-87(E)

Filed with Secretary of State: March 18, 2003, 8:15 a.m.