

State of Minnesota
Emergency Medical Services Regulatory Board
Executive Committee Meeting Agenda

October 20, 2016 – 10:00 a.m.

EMSRB Offices – 4th Floor Conference Room

[Map & Parking](#)

1. Call to Order – 10:00 a.m.

2. Public Comment – 10:05 a.m.

The public comment portion of the Executive Committee meeting is where the public is invited to address the committee on subjects which are not part of the meeting agenda. Persons wishing to speak are asked to complete the participation form located at the meeting room door prior to the start of the meeting. Please limit remarks to three minutes.

3. Approve Agenda – 10:10 a.m.

4. Approve Minutes – 10:15 a.m.

- Approval Executive Committee Meeting Minutes from June 16, 2016

Attachments

A1

5. Board Chair Report – 10:20 a.m.

- 2017 Board Meeting Schedule

BC1

6. Executive Director Report – 10:30 a.m. – Tony Spector

- Board of Nursing – House File 3929
- Staff Hiring

ED1

7. Committee Reports – 11:00 a.m.

- Ambulance Standards Work Group Report from meeting on October 18, 2016
- Legislative Ad-Hoc Work Group Report – Kevin Miller

8. New Business – 11:15 a.m.

9. Adjourn – 11:20 a.m.

Next Executive Committee Meeting: December 15, 2016 -- Minneapolis

If you plan to attend the meeting and need accommodations for a disability, please contact Melody Nagy at (651) 201-2802. In accordance with the Minnesota Open Meeting Law and the Internal Operating Procedures of the Emergency Medical Services Regulatory Board, this agenda is posted at: <http://www.emsrb.state.mn.us>

State of Minnesota
Emergency Medical Services Regulatory Board
Executive Committee Meeting Minutes
June 16, 2016

Attendance: J.B. Guiton, Board Chair; Aaron Burnett, M.D.; Megan Hartigan; Jeffrey Ho, M.D.; Tony Spector; Executive Director; Melody Nagy, Office Coordinator; Chris Popp, Compliance Supervisor; Mary Zappetillo, EMS Specialist; Greg Schaefer, Assistant Attorney General

Absent: Kevin Miller; Matt Simpson

1. Call to Order – 10:00 a.m.

Mr. Guiton called the meeting to order at 10:02 a.m.

2. Public Comment – 10:05 a.m.

The public comment portion of the Executive Committee meeting is where the public may address the Executive Committee on subjects which are not part of the meeting agenda. Persons wishing to speak must complete the participation form provided at the meeting room door prior to the start of the meeting. Please limit remarks to 3 minutes. The Executive Committee will listen attentively to comments but, in most instances, will not respond at the meeting. Typically, replies to issues or concerns expressed will be made via letter or phone call within a week.

None.

3. Approve Agenda – 10:10 a.m.

Mr. Guiton asked for a motion to approve the agenda. Dr. Burnett asked to add “Executive Director Performance Review” to the agenda.

Motion: Dr. Ho moved to approve the agenda as amended. Ms. Hartigan seconded. Motion carried.

4. Approve Minutes – 10:15 a.m.

Approval Executive Committee Meeting Minutes from April 26, 2016.

Motion: Dr. Burnett moved to approve the minutes from the April 26, 2016 Executive Committee. Dr. Ho seconded. Motion carried.

5. Board Chair Report – 10:20 a.m.

Mr. Guiton thanked the Executive Director Search Committee for its work on the Executive Director’s performance review. This Committee will report to the Board at the July meeting where it will be presented and discussed in closed session. In addition, the Board and the Committee will work on process improvements for next year’s performance evaluation.

Mr. Guiton said that he spoke to the physician regarding the Provider Orders for Life Sustaining Treatment (POLST) form. He asked for this topic to be included on the July Board agenda. The Board has endorsed this form in the past. The form needs to be widely distributed.

6. Executive Director Report – 10:40 a.m.

NEMSIS Reporting Issue

Mr. Spector said that he reviewed the contract with Image Trend and identified a lack of clarity regarding the vendor’s obligations to submit data to NEMSIS. Mr. Spector had met with the

The Mission of the EMSRB is to protect the public’s health and safety through regulation and support of the EMS system.

Image Trend who agreed to submit data to NEMSIS on a go forward basis consistent with its obligations. The correction orders that have been issued to ambulance services will be reviewed and will be rescinded during the time the EMSRB was not in compliance with reporting requirements. This will be done by the end of the year. Mr. Guiton asked for a report on this at the September Board Meeting.

Mr. Spector said the oversight in lack of communication with HCMC EMS regarding MNSTAR technology issues has been resolved. All interested parties will be mailed information on Data Policy Standing Advisory Committee (DPSAC) meetings.

Offline Licensing and Credentialing Process

Mr. Spector said the EMSRB we will be taking the licensing and credentialing systems offline as of July 5th. This is being done due to the end-of-life of our current system as the result of the termination of the contract between the vendor and MN.IT. The offline system will be a test of what we developed in real time to process manual certifications. It will assure that the EMSRB has continuity of operations in the event the new online system ever crashes. The EMSRB is communicating the change to the offline process to all stakeholders. The EMSRB also is working with ambulance services and education programs for their renewal process during the interim.

Agency Staffing Report

Mr. Spector said he is going to fill the Southwest EMS Specialist and the Office Specialist positions. The funding for these hires was discussed with the Administrative Services Unit. Staff vacancies have resulted in funding being available that will not be needed for encumbrance for the new online system as was previously understood. The EMSRB will not need to fund a new e-licensing system with funds from fiscal year 2016. Mr. Spector will be seeking funding from MN.IT for support of the new system.

Mr. Spector said the money that was being asked for in the supplemental budget request for replacement of radios may not be needed because Mr. Robinson has offered to loan radios to the EMSRB. We may consider leasing radios in the future.

University of Minnesota Research Project – Cancelled by University of Minnesota

Mr. Spector said at the last Board meeting he announced that a research student from the University of Minnesota expressed interest in engaging a research project on validating MNSTAR data with cardiac data from the CARES project. Mr. Spector and Licensing Administrator Rose Olson met with the research student and faculty advisory from the University of Minnesota and found that they had no project plan or a more detailed description of the research project. They did, however, ask for a full download of the MNSTAR data and assured the agency that there exists adequate security to keep the data secure. Mr. Spector explained that he was not willing to provide a full download of the MNSTAR data. A few weeks later Mr. Spector heard from the faculty advisor who explained that the MNSTAR research project will not move forward as the student has chosen another project.

Dr. Burnett said he supported the decision not to provide the researcher with a full download of the agency's MNSTAR data. Ms. Hartigan, who is the Board member that chairs the Data Policy Standing Advisory Committee, also expressed her agreement with the decision. Mr. Spector said have an obligation under the Data Practices Act to release summary data upon request, and we have an obligation to protect the integrity of the data and release private data in accordance with the law.

7. EMS Standards Crisis of Care Update of Work Group Progress – 11:00 a.m.

Dr. Burnett said that he, Ms. Brodsky, Field Services Supervisor Bob Norlen have been attending these work group meetings. The document provided at the Executive Committee meeting will be circulated for public comment for 60 days. Dr. Burnett is seeking Board endorsement of this planning document that does not involve statute or rule changes. It is suggested that the Medical Direction Standing Advisory Committee MDSAC would be an available resource in this planning effort. One of the questions for Board discussion is who would be the responsible person at EMSRB to make these decisions. This should be a Board decision. Mr. Guiton suggested that the Board Chair and/or Vice-Chair and the Chair of the MDSAC would need to be involved.

Ron Robinson, Metro EMS Region director who was attending the committee meeting as a public member, suggested that the EMSRB needs to look at the language regarding suspension of statutes during an “emergency”. These decisions happen outside the involvement of the EMSRB. Mr. Burnett asked Mr. Robinson to provide this as a comment in the public comments.

Mr. Guiton said when the Governor declares an emergency specific things fall into place. Mr. Guiton said that having four physicians on the Board is very valuable.

8. Committee Reports – 11:15 a.m.**Complaint Review Panel (CRP)**

Mr. Simpson is not present to report today. Mr. Spector said staff is looking at the investigation process and wants to provide all information needed for decisions by the Complaint Review Panel. Staff now will be audio recording all interviews. A consultant is will be providing some training that includes an investigative template for staff. The Complaint Review Panel is a very important agency function to protect the public health and safety. Mr. Guiton commented that there were five conferences at the last meeting of the CRP.

Data Policy Standing Advisory Committee (DPSAC) Report

Ms. Hartigan said the committee will be meeting on August 4 and will have a recommendation for the next Board meeting for implementation of 3.4.0 data set to have all services compliant by the end of 2017.

Legislative Ad-Hoc Committee

Mr. Miller is not present to report today. Mr. Guiton said there is the potential for a special session in the near future. Mr. Guiton also said that the EMSRB will wait to see if it receives additional funds during a special session. Mr. Guiton also said that he is pleased with Mr. Spector’s good planning regarding agency needs.

Medical Direction Standing Advisory Committee Report

Dr. Burnett said he attended the State Trauma Advisory Committee (STAC) Joint Policy Committee. The EMSRB has three members and MDH has three members. There are currently four vacancies. This has not been an active committee. There are topics that this committee should be considering. Dr. Burnett asked the Board chair to nominate two additional members. Dr. Ho volunteered. Mr. Guiton asked for this to be on the agenda for the July Board meeting.

Post Transition Education Work Group

Mr. Guiton said this meeting was postponed. Mr. Guiton emphasized that the agendas and handouts must be provided in advance so that there is adequate time for public review and comment. The EMSRB wants transparency in its activities.

Mr. Spector said that one agenda item was discussion for Emergency Medical Responder renewals and a change in policy for renewal requirements. The second item for discussion is

licensure vs certification. Staff will make sure the handouts are available to workgroup members. Although the agency is short on staff, it still will meet its obligations.

Mr. Guiton said that he has received phone calls asking about these changes. He asked if the FAQ can be posted soon. The transition can be simple. It should be explainable. Mr. Guiton said he is receiving calls regarding the Mark King initiative. We need to have an agency response available. Mr. Spector complemented Mary Zappetillo for her efforts in providing customer assistance as requested.

9. Closed Session – 11:25 a.m.

Closed per Minn. Stat. § 144E.28, subdivision 5 and Minn. Stat. § 13D.05, Subd. 2(b) (*Complaint Reviews*) and Minn. Stat. § 13D.05, Subd. 3(2) (*Personnel Matters*)

Mr. Guiton moved the meeting to a closed session. Personnel matters were discussed.

10. Re-Open Meeting – 11:35 a.m.

Mr. Guiton reopened the meeting.

11. New Business – 11:40 a.m.

The EMSRB webmaster email address will be replaced with EMSRB@state.mn.us

Dr. Burnett said he cannot make the time to attend rural ambulance assessments. There could be more Board member and physician involvement. The assessment provides advice to an ambulance service.

Mr. Spector said that the agency recently was involved in an ambulance assessment in Lake City. The EMSRB is dedicating staff to these efforts. There is value in a discussion between the medical director of the Board and the local medical director.

Dr. Burnett suggested that this will be discussed at MDSAC to see who is interested in participating. Mr. Guiton said he would see value in this suggestion.

12. Adjourn

Motion: Dr. Burnett moved to adjourn. Ms. Hartigan seconded. Motion carried.

Meeting adjourned at 11:50 a.m.

2017 Meeting Schedule

Board Meetings

Thursday, January 26, 10:00 a.m.	City of Woodbury Public Safety Building
Thursday, March 16, 10:00 a.m.	Hilton Garden Inn, Rochester, Minnesota
Thursday, May 18, 10:00 a.m.	Board Room, Minneapolis
Thursday, July 20, 10:00 a.m.	Board Room, Minneapolis
Friday, September 8, 9:00 a.m.	Arrowwood Conference Center, Alexandria, Minnesota
Thursday, November 16, 10:00 a.m.	Board Room, Minneapolis

2018

Thursday, January 18, 10:00 a.m.	Board Room, Minneapolis
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Executive Committee Meetings

Thursday, February 16, 10:00 a.m.	Board Room, Minneapolis
Thursday, April 20, 10:00 a.m.	Board Room, Minneapolis
Thursday, June 15, 10:00 a.m.	Board Room, Minneapolis
Tuesday, August 17, 10:00 a.m.	Board Room, Minneapolis
Thursday, October 19, 10:00 a.m.	Board Room, Minneapolis
Thursday, December 21, 10:00 a.m.	Board Room, Minneapolis

2018

Thursday, February 15, 10:00 a.m.	Board Room, Minneapolis
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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 3929

04/15/2016 Authored by Zerwas

The bill was read for the first time and referred to the Committee on Health and Human Services Reform

1.1 A bill for an act
1.2 relating to health; authorizing certified paraprofessionals to provide home care
1.3 services; directing the commissioner of human services to seek federal approval
1.4 for reimbursement of certified paraprofessionals who provide home care
1.5 services; directing the commissioner of human services to establish procedure
1.6 codes for reimbursement of certified paraprofessionals; amending Minnesota
1.7 Statutes 2014, sections 144A.43, subdivision 3, by adding a subdivision;
1.8 144A.471, subdivisions 6, 7; 144A.472, subdivision 2; 144A.4792, subdivision
1.9 6; 144A.4795, by adding a subdivision.

1.10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.11 Section 1. Minnesota Statutes 2014, section 144A.43, is amended by adding a
1.12 subdivision to read:

1.13 Subd. 1f. **Certified paraprofessional.** "Certified paraprofessional" means:

1.14 (1) a medical assistant who graduated from an accredited medical assistant training
1.15 program, passed a medical assistant certification examination, and is certified by a national
1.16 medical assistant certification organization recognized by the commissioner;

1.17 (2) a paramedic as defined in section 144E.001, subdivision 5e; or

1.18 (3) an emergency medical technician as defined in section 144E.001, subdivision 5c.

1.19 Sec. 2. Minnesota Statutes 2014, section 144A.43, subdivision 3, is amended to read:

1.20 Subd. 3. **Home care service.** "Home care service" means any of the following
1.21 services delivered in the home of a person whose illness, disability, or physical condition
1.22 creates a need for the service:

1.23 (1) assistive tasks provided by unlicensed personnel;

2.1 (2) services provided by a registered nurse or licensed practical nurse, physical
 2.2 therapist, respiratory therapist, occupational therapist, speech-language pathologist,
 2.3 dietitian or nutritionist, or social worker;

2.4 (3) services provided by certified paraprofessionals;

2.5 ~~(3)~~ (4) medication and treatment management services; or

2.6 ~~(4)~~ (5) the provision of durable medical equipment services when provided with any
 2.7 of the home care services listed in clauses (1) to ~~(3)~~ (4).

2.8 Sec. 3. Minnesota Statutes 2014, section 144A.471, subdivision 6, is amended to read:

2.9 Subd. 6. **Basic home care license provider.** Home care services that can be
 2.10 provided with a basic home care license are assistive tasks provided by licensed or
 2.11 unlicensed personnel or certified paraprofessionals that include:

2.12 (1) assisting with dressing, self-feeding, oral hygiene, hair care, grooming, toileting,
 2.13 and bathing;

2.14 (2) providing standby assistance;

2.15 (3) providing verbal or visual reminders to the client to take regularly scheduled
 2.16 medication, which includes bringing the client previously set-up medication, medication
 2.17 in original containers, or liquid or food to accompany the medication;

2.18 (4) providing verbal or visual reminders to the client to perform regularly scheduled
 2.19 treatments and exercises;

2.20 (5) preparing modified diets ordered by a licensed health professional; and

2.21 (6) assisting with laundry, housekeeping, meal preparation, shopping, or other
 2.22 household chores and services if the provider is also providing at least one of the activities
 2.23 in clauses (1) to (5).

2.24 Sec. 4. Minnesota Statutes 2014, section 144A.471, subdivision 7, is amended to read:

2.25 Subd. 7. **Comprehensive home care license provider.** Home care services that
 2.26 may be provided with a comprehensive home care license include any of the basic home
 2.27 care services listed in subdivision 6, and one or more of the following:

2.28 (1) services of an advanced practice nurse, registered nurse, licensed practical
 2.29 nurse, physical therapist, respiratory therapist, occupational therapist, speech-language
 2.30 pathologist, dietitian or nutritionist, or social worker;

2.31 (2) tasks delegated to unlicensed personnel by a registered nurse or assigned by a
 2.32 licensed health professional within the person's scope of practice;

2.33 (3) services of a certified paraprofessional;

2.34 ~~(3)~~ (4) medication management services;

- 3.1 ~~(4)~~ (5) hands-on assistance with transfers and mobility;
- 3.2 ~~(5)~~ (6) assisting clients with eating when the clients have complicating eating
- 3.3 problems as identified in the client record or through an assessment such as difficulty
- 3.4 swallowing, recurrent lung aspirations, or requiring the use of a tube or parenteral or
- 3.5 intravenous instruments to be fed; or
- 3.6 ~~(6)~~ (7) providing other complex or specialty health care services.

3.7 Sec. 5. Minnesota Statutes 2014, section 144A.472, subdivision 2, is amended to read:

3.8 Subd. 2. **Comprehensive home care license applications.** In addition to the

3.9 information and fee required in subdivision 1, applicants applying for a comprehensive

3.10 home care license must also provide verification that the applicant has the following

3.11 policies and procedures in place so that if a license is issued, the applicant will implement

3.12 the policies and procedures in this subdivision and keep them current:

3.13 (1) conducting initial and ongoing assessments of the client's needs by a registered

3.14 nurse or appropriate licensed health professional, including how changes in the client's

3.15 conditions are identified, managed, and communicated to staff and other health care

3.16 providers, as appropriate;

3.17 (2) ensuring that nurses and licensed health professionals have current and valid

3.18 licenses to practice;

3.19 (3) ensuring that certified paraprofessionals have current and valid certifications;

3.20 ~~(3)~~ (4) medication and treatment management;

3.21 ~~(4)~~ (5) delegation of home care tasks by registered nurses or licensed health

3.22 professionals;

3.23 ~~(5)~~ (6) supervision of registered nurses and licensed health professionals; and

3.24 (7) supervision of certified paraprofessionals; and

3.25 ~~(6)~~ (8) supervision of unlicensed personnel performing delegated home care tasks.

3.26 Sec. 6. Minnesota Statutes 2014, section 144A.4792, subdivision 6, is amended to read:

3.27 Subd. 6. **Administration of medication.** Medications may be administered by

3.28 a nurse, physician, ~~or~~ other licensed health practitioner, or certified paraprofessional

3.29 authorized to administer medications or by unlicensed personnel who have been delegated

3.30 medication administration tasks by a registered nurse.

3.31 Sec. 7. Minnesota Statutes 2014, section 144A.4795, is amended by adding a

3.32 subdivision to read:

4.1 Subd. 2a. **Certified paraprofessionals.** Certified paraprofessionals providing home
 4.2 care services must possess a current professional certification and must have successfully
 4.3 completed 40 hours of training on the provision of home care services. The training
 4.4 program must be approved by the commissioner and must provide training on at least
 4.5 the following:

- 4.6 (1) the home care bill of rights under section 144A.44;
 4.7 (2) federal and state requirements related to medical records and data privacy;
 4.8 (3) understanding appropriate boundaries between staff and clients and family
 4.9 members;
 4.10 (4) ventilator operation and maintenance and the care of ventilator-dependent clients;
 4.11 (5) the care of clients with tracheotomies;
 4.12 (6) appropriate techniques for assisting clients with activities of daily living;
 4.13 (7) cardiopulmonary resuscitation;
 4.14 (8) appropriate infection control techniques;
 4.15 (9) sensitivity to and respect for the client's cultural background; and
 4.16 (10) reporting of maltreatment of minors under section 626.556 and maltreatment of
 4.17 vulnerable adults under section 626.557.

4.18 **Sec. 8. DIRECTION TO COMMISSIONER; ESTABLISHING PROCEDURE**
 4.19 **CODES.**

4.20 The commissioner of human services shall establish procedure codes for certified
 4.21 medical assistants, paramedics, and emergency medical technicians who provide home
 4.22 care services as certified paraprofessionals to be reimbursed for services provided under
 4.23 Minnesota Statutes, sections 256B.0651, 256B.0659, 256B.0915, 256B.092, 256B.093,
 4.24 256B.49, and 256B.85, at a rate equal to the rate established for licensed professional
 4.25 nurses who provide the same services.

4.26 **EFFECTIVE DATE.** This section is effective upon receipt of the federal waivers
 4.27 or approvals requested according to section 9 to allow for reimbursement of certified
 4.28 paraprofessionals.

4.29 **Sec. 9. DIRECTION TO COMMISSIONER; FEDERAL APPROVAL.**

4.30 The commissioner of human services shall request from the federal Centers for
 4.31 Medicare and Medicaid Services all waivers and approvals necessary to reimburse certified
 4.32 medical assistants, paramedics, and emergency medical technicians who provide home
 4.33 care services as certified paraprofessionals for services provided under Minnesota Statutes,
 4.34 sections 256B.0651, 256B.0659, 256B.0915, 256B.092, 256B.093, 256B.49, and 256B.85.

144A.43 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to sections 144.699, subdivision 2, and 144A.43 to 144A.482.

Subd. 1a. **Agent.** "Agent" means the person upon whom all notices and orders shall be served and who is authorized to accept service of notices and orders on behalf of the home care provider.

Subd. 1b. **Applicant.** "Applicant" means an individual, organization, association, corporation, unit of government, or other entity that applies for a temporary license, license, or renewal of the applicant's home care provider license under section 144A.472.

Subd. 1c. **Client.** "Client" means a person to whom home care services are provided.

Subd. 1d. **Client record.** "Client record" means all records that document information about the home care services provided to the client by the home care provider.

Subd. 1e. **Client representative.** "Client representative" means a person who, because of the client's needs, makes decisions about the client's care on behalf of the client. A client representative may be a guardian, health care agent, family member, or other agent of the client. Nothing in this section expands or diminishes the rights of persons to act on behalf of clients under other law.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of health.

Subd. 2a. **Controlled substance.** "Controlled substance" has the meaning given in section 152.01, subdivision 4.

Subd. 2b. **Department.** "Department" means the Minnesota Department of Health.

Subd. 2c. **Dietary supplement.** "Dietary supplement" means a product taken by mouth that contains a dietary ingredient intended to supplement the diet. Dietary ingredients may include vitamins, minerals, herbs or other botanicals, amino acids, and substances such as enzymes, organ tissue, glandulars, or metabolites.

Subd. 2d. **Dietitian.** "Dietitian" is a person licensed under sections 148.621 to 148.633.

Subd. 2e. **Dietetics or nutrition practice.** "Dietetics or nutrition practice" is performed by a licensed dietitian or licensed nutritionist and includes the activities of assessment, setting priorities and objectives, providing nutrition counseling, developing and implementing nutrition care services, and evaluating and maintaining appropriate standards of quality of nutrition care under sections 148.621 to 148.633.

Subd. 3. **Home care service.** "Home care service" means any of the following services delivered in the home of a person whose illness, disability, or physical condition creates a need for the service:

- (1) assistive tasks provided by unlicensed personnel;
- (2) services provided by a registered nurse or licensed practical nurse, physical therapist, respiratory therapist, occupational therapist, speech-language pathologist, dietitian or nutritionist, or social worker;
- (3) medication and treatment management services; or
- (4) the provision of durable medical equipment services when provided with any of the home care services listed in clauses (1) to (3).

Subd. 3a. **Hands-on assistance.** "Hands-on assistance" means physical help by another person without which the client is not able to perform the activity.

Subd. 3b. **Home.** "Home" means the client's temporary or permanent place of residence.

Subd. 4. **Home care provider.** "Home care provider" means an individual, organization, association, corporation, unit of government, or other entity that is regularly engaged in the delivery of at least one home care service, directly in a client's home for a fee and who has a valid current temporary license or license issued under sections 144A.43 to 144A.482.

Subd. 5. [Repealed by amendment, 2013 c 108 art 11 s 7]

Subd. 6. **License.** "License" means a basic or comprehensive home care license issued by the commissioner to a home care provider.

Subd. 7. **Licensed health professional.** "Licensed health professional" means a person, other than a registered nurse or licensed practical nurse, who provides home care services within the scope of practice of the person's health occupation license, registration, or certification as regulated and who is licensed by the appropriate Minnesota state board or agency.

Subd. 8. **Licensee.** "Licensee" means a home care provider that is licensed under this chapter.

Subd. 9. **Managerial official.** "Managerial official" means an administrator, director, officer, trustee, or employee of a home care provider, however designated, who has the authority to establish or control business policy.

Subd. 10. **Medication.** "Medication" means a prescription or over-the-counter drug. For purposes of this chapter only, medication includes dietary supplements.

Subd. 11. **Medication administration.** "Medication administration" means performing a set of tasks to ensure a client takes medications, and includes the following:

- (1) checking the client's medication record;
- (2) preparing the medication as necessary;
- (3) administering the medication to the client;

(4) documenting the administration or reason for not administering the medication; and

(5) reporting to a nurse any concerns about the medication, the client, or the client's refusal to take the medication.

Subd. 12. **Medication management.** "Medication management" means the provision of any of the following medication-related services to a client:

- (1) performing medication setup;
- (2) administering medication;
- (3) storing and securing medications;
- (4) documenting medication activities;
- (5) verifying and monitoring effectiveness of systems to ensure safe handling and administration;
- (6) coordinating refills;
- (7) handling and implementing changes to prescriptions;

(8) communicating with the pharmacy about the client's medications; and

(9) coordinating and communicating with the prescriber.

Subd. 13. **Medication setup.** "Medication setup" means arranging medications by a nurse, pharmacy, or authorized prescriber for later administration by the client or by comprehensive home care staff.

Subd. 14. **Nurse.** "Nurse" means a person who is licensed under sections 148.171 to 148.285.

Subd. 15. **Occupational therapist.** "Occupational therapist" means a person who is licensed under sections 148.6401 to 148.6450.

Subd. 16. **Over-the-counter drug.** "Over-the-counter drug" means a drug that is not required by federal law to bear the symbol "Rx only."

Subd. 17. **Owner.** "Owner" means a proprietor, a general partner, a limited partner who has five percent or more equity interest in a limited partnership, a person who owns or controls voting stock in a corporation in an amount equal to or greater than five percent of the shares issued and outstanding, or a corporation that owns equity interest in a licensee or applicant for a license.

Subd. 18. **Pharmacist.** "Pharmacist" has the meaning given in section 151.01, subdivision 3.

Subd. 19. **Physical therapist.** "Physical therapist" means a person who is licensed under sections 148.65 to 148.78.

Subd. 20. **Physician.** "Physician" means a person who is licensed under chapter 147.

Subd. 21. **Prescriber.** "Prescriber" means a person who is authorized by sections 148.235; 151.01, subdivision 23; and 151.37 to prescribe prescription drugs.

Subd. 22. **Prescription.** "Prescription" has the meaning given in section 151.01, subdivision 16a.

Subd. 23. **Regularly scheduled.** "Regularly scheduled" means ordered or planned to be completed at predetermined times or according to a predetermined routine.

Subd. 24. **Reminder.** "Reminder" means providing a verbal or visual reminder to a client.

Subd. 25. **Respiratory therapist.** "Respiratory therapist" means a person who is licensed under chapter 147C.

Subd. 26. **Revenues.** "Revenues" means all money received by a licensee derived from the provision of home care services, including fees for services and appropriations of public money for home care services.

Subd. 27. **Service plan.** "Service plan" means the written plan between the client or client's representative and the temporary licensee or licensee about the services that will be provided to the client.

Subd. 28. **Social worker.** "Social worker" means a person who is licensed under chapter 148D or 148E.

Subd. 29. **Speech-language pathologist.** "Speech-language pathologist" has the meaning given in section 148.512.

Subd. 30. **Standby assistance.** "Standby assistance" means the presence of another person within arm's reach to minimize the risk of injury while performing daily activities through physical intervention or cuing.

Subd. 31. **Substantial compliance.** "Substantial compliance" means complying with the requirements in this chapter sufficiently to prevent unacceptable health or safety risks to the home care client.

Subd. 32. **Survey.** "Survey" means an inspection of a licensee or applicant for licensure for compliance with this chapter.

Subd. 33. **Surveyor.** "Surveyor" means a staff person of the department authorized to conduct surveys of home care providers and applicants.

Subd. 34. **Temporary license.** "Temporary license" means the initial basic or comprehensive home care license the department issues after approval of a complete written application and before the department completes the temporary license survey and determines that the temporary licensee is in substantial compliance.

Subd. 35. **Treatment or therapy.** "Treatment" or "therapy" means the provision of care, other than medications, ordered or prescribed by a licensed health professional provided to a client to cure, rehabilitate, or ease symptoms.

Subd. 36. **Unit of government.** "Unit of government" means every city, county, town, school district, other political subdivisions of the state, or agency of the state or federal government, which includes any instrumentality of a unit of government.

Subd. 37. **Unlicensed personnel.** "Unlicensed personnel" are individuals not otherwise licensed or certified by a governmental health board or agency who provide home care services in the client's home.

Subd. 38. **Verbal.** "Verbal" means oral and not in writing.

History: 1987 c 378 s 3; 1989 c 194 s 1; 1989 c 304 s 137; 1992 c 513 art 6 s 5,6; 1995 c 207 art 9 s 20; 1997 c 22 art 2 s 2,8; 1997 c 113 s 1; 2002 c 252 s 2-4,24; 2009 c 174 art 2 s 4; 2013 c 108 art 11 s 7; 2014 c 275 art 1 s 135; 2016 c 158 art 1 s 59

144A.471 HOME CARE PROVIDER AND HOME CARE SERVICES.

Subdivision 1. **License required.** A home care provider may not open, operate, manage, conduct, maintain, or advertise itself as a home care provider or provide home care services in Minnesota without a temporary or current home care provider license issued by the commissioner of health.

Subd. 2. **Determination of direct home care service.** (a) "Direct home care service" means a home care service provided to a client by the home care provider or its employees, and not by contract. Factors that must be considered in determining whether an individual or a business entity provides at least one home care service directly include, but are not limited to, whether the individual or business entity:

- (1) has the right to control, and does control, the types of services provided;
- (2) has the right to control, and does control, when and how the services are provided;
- (3) establishes the charges;
- (4) collects fees from the clients or receives payment from third-party payers on the clients' behalf;
- (5) pays individuals providing services compensation on an hourly, weekly, or similar basis;
- (6) treats the individuals providing services as employees for the purposes of payroll taxes and workers' compensation insurance; and
- (7) holds itself out as a provider of home care services or acts in a manner that leads clients or potential clients to believe that it is a home care provider providing home care services.

(b) None of the factors listed in this subdivision is solely determinative.

Subd. 3. **Determination of regularly engaged.** (a) "Regularly engaged" means providing, or offering to provide, home care services as a regular part of a business. The following factors must be considered by the commissioner in determining whether an individual or a business entity is regularly engaged in providing home care services:

- (1) whether the individual or business entity states or otherwise promotes that the individual or business entity provides home care services;
- (2) whether persons receiving home care services constitute a substantial part of the individual's or the business entity's clientele; and
- (3) whether the home care services provided are other than occasional or incidental to the provision of services other than home care services.

(b) None of the factors listed in this subdivision is solely determinative.

Subd. 4. **Penalties for operating without license.** A person involved in the management, operation, or control of a home care provider that operates without an appropriate license is guilty of a misdemeanor. This section does not apply to a person who has no legal authority to affect or change decisions related to the management, operation, or control of a home care provider.

Subd. 5. **Basic and comprehensive levels of licensure.** An applicant seeking to become a home care provider must apply for either a basic or comprehensive home care license.

Subd. 6. **Basic home care license provider.** Home care services that can be provided with a basic home care license are assistive tasks provided by licensed or unlicensed personnel that include:

- (1) assisting with dressing, self-feeding, oral hygiene, hair care, grooming, toileting, and bathing;
- (2) providing standby assistance;
- (3) providing verbal or visual reminders to the client to take regularly scheduled medication, which includes bringing the client previously set-up medication, medication in original containers, or liquid or food to accompany the medication;
- (4) providing verbal or visual reminders to the client to perform regularly scheduled treatments and exercises;
- (5) preparing modified diets ordered by a licensed health professional; and
- (6) assisting with laundry, housekeeping, meal preparation, shopping, or other household chores and services if the provider is also providing at least one of the activities in clauses (1) to (5).

Subd. 7. **Comprehensive home care license provider.** Home care services that may be provided with a comprehensive home care license include any of the basic home care services listed in subdivision 6, and one or more of the following:

- (1) services of an advanced practice nurse, registered nurse, licensed practical nurse, physical therapist, respiratory therapist, occupational therapist, speech-language pathologist, dietitian or nutritionist, or social worker;
- (2) tasks delegated to unlicensed personnel by a registered nurse or assigned by a licensed health professional within the person's scope of practice;
- (3) medication management services;
- (4) hands-on assistance with transfers and mobility;
- (5) assisting clients with eating when the clients have complicating eating problems as identified in the client record or through an assessment such as difficulty swallowing, recurrent lung aspirations, or requiring the use of a tube or parenteral or intravenous instruments to be fed; or
- (6) providing other complex or specialty health care services.

Subd. 8. **Exemptions from home care services licensure.** (a) Except as otherwise provided in this chapter, home care services that are provided by the state, counties, or other units of government must be licensed under this chapter.

(b) An exemption under this subdivision does not excuse the exempted individual or organization from complying with applicable provisions of the home care bill of rights in section 144A.44. The following individuals or organizations are exempt from the requirement to obtain a home care provider license:

- (1) an individual or organization that offers, provides, or arranges for personal care assistance services under the medical assistance program as authorized under sections 256B.0625, subdivision 19a, and 256B.0659;
- (2) a provider that is licensed by the commissioner of human services to provide semi-independent living services for persons with developmental disabilities under section 252.275 and Minnesota Rules, parts 9525.0900 to 9525.1020;

(3) a provider that is licensed by the commissioner of human services to provide home and community-based services for persons with developmental disabilities under section 256B.092 and Minnesota Rules, parts 9525.1800 to 9525.1930;

(4) an individual or organization that provides only home management services, if the individual or organization is registered under section 144A.482; or

(5) an individual who is licensed in this state as a nurse, dietitian, social worker, occupational therapist, physical therapist, or speech-language pathologist who provides health care services in the home independently and not through any contractual or employment relationship with a home care provider or other organization.

Subd. 9. Exclusions from home care licensure. The following are excluded from home care licensure and are not required to provide the home care bill of rights:

(1) an individual or business entity providing only coordination of home care that includes one or more of the following:

(i) determination of whether a client needs home care services, or assisting a client in determining what services are needed;

(ii) referral of clients to a home care provider;

(iii) administration of payments for home care services; or

(iv) administration of a health care home established under section 256B.0751;

(2) an individual who is not an employee of a licensed home care provider if the individual:

(i) only provides services as an independent contractor to one or more licensed home care providers;

(ii) provides no services under direct agreements or contracts with clients; and

(iii) is contractually bound to perform services in compliance with the contracting home care provider's policies and service plans;

(3) a business that provides staff to home care providers, such as a temporary employment agency, if the business:

(i) only provides staff under contract to licensed or exempt providers;

(ii) provides no services under direct agreements with clients; and

(iii) is contractually bound to perform services under the contracting home care provider's direction and supervision;

(4) any home care services conducted by and for the adherents of any recognized church or religious denomination for its members through spiritual means, or by prayer for healing;

(5) an individual who only provides home care services to a relative;

(6) an individual not connected with a home care provider that provides assistance with basic home care needs if the assistance is provided primarily as a contribution and not as a business;

(7) an individual not connected with a home care provider that shares housing with and provides primarily housekeeping or homemaking services to an elderly or disabled person in return for free or reduced-cost housing;

(8) an individual or provider providing home-delivered meal services;

(9) an individual providing senior companion services and other older American volunteer programs (OAVP) established under the Domestic Volunteer Service Act of 1973, United States Code, title 42, chapter 66;

(10) an employee of a nursing home or home care provider licensed under this chapter or an employee of a boarding care home licensed under sections 144.50 to 144.56 when responding to occasional emergency calls from individuals residing in a residential setting that is attached to or located on property contiguous to the nursing home, boarding care home, or location where home care services are also provided;

(11) an employee of a nursing home or home care provider licensed under this chapter or an employee of a boarding care home licensed under sections 144.50 to 144.56 when providing occasional minor services free of charge to individuals residing in a residential setting that is attached to or located on property contiguous to the nursing home, boarding care home, or location where home care services are also provided;

(12) a member of a professional corporation organized under chapter 319B that does not regularly offer or provide home care services as defined in section 144A.43, subdivision 3;

(13) the following organizations established to provide medical or surgical services that do not regularly offer or provide home care services as defined in section 144A.43, subdivision 3: a business trust organized under sections 318.01 to 318.04, a nonprofit corporation organized under chapter 317A, a partnership organized under chapter 323, or any other entity determined by the commissioner;

(14) an individual or agency that provides medical supplies or durable medical equipment, except when the provision of supplies or equipment is accompanied by a home care service;

(15) a physician licensed under chapter 147;

(16) an individual who provides home care services to a person with a developmental disability who lives in a place of residence with a family, foster family, or primary caregiver;

(17) a business that only provides services that are primarily instructional and not medical services or health-related support services;

(18) an individual who performs basic home care services for no more than 14 hours each calendar week to no more than one client;

(19) an individual or business licensed as hospice as defined in sections 144A.75 to 144A.755 who is not providing home care services independent of hospice service;

(20) activities conducted by the commissioner of health or a community health board as defined in section 145A.02, subdivision 5, including communicable disease investigations or testing; or

(21) administering or monitoring a prescribed therapy necessary to control or prevent a communicable disease, or the monitoring of an individual's compliance with a health directive as defined in section 144.4172, subdivision 6.

History: *2013 c 108 art 11 s 10; 2014 c 262 art 5 s 6; 2014 c 275 art 1 s 135; 2014 c 291 art 7 s 28; 2016 c 179 s 6*

144A.472 HOME CARE PROVIDER LICENSE; APPLICATION AND RENEWAL.

Subdivision 1. **License applications.** Each application for a home care provider license must include information sufficient to show that the applicant meets the requirements of licensure, including:

(1) the applicant's name, e-mail address, physical address, and mailing address, including the name of the county in which the applicant resides and has a principal place of business;

(2) the initial license fee in the amount specified in subdivision 7;

(3) the e-mail address, physical address, mailing address, and telephone number of the principal administrative office;

(4) the e-mail address, physical address, mailing address, and telephone number of each branch office, if any;

(5) the names, e-mail and mailing addresses, and telephone numbers of all owners and managerial officials;

(6) documentation of compliance with the background study requirements of section 144A.476 for all persons involved in the management, operation, or control of the home care provider;

(7) documentation of a background study as required by section 144.057 for any individual seeking employment, paid or volunteer, with the home care provider;

(8) evidence of workers' compensation coverage as required by sections 176.181 and 176.182;

(9) documentation of liability coverage, if the provider has it;

(10) identification of the license level the provider is seeking;

(11) documentation that identifies the managerial official who is in charge of day-to-day operations and attestation that the person has reviewed and understands the home care provider regulations;

(12) documentation that the applicant has designated one or more owners, managerial officials, or employees as an agent or agents, which shall not affect the legal responsibility of any other owner or managerial official under this chapter;

(13) the signature of the officer or managing agent on behalf of an entity, corporation, association, or unit of government;

(14) verification that the applicant has the following policies and procedures in place so that if a license is issued, the applicant will implement the policies and procedures and keep them current:

(i) requirements in sections 626.556, reporting of maltreatment of minors, and 626.557, reporting of maltreatment of vulnerable adults;

(ii) conducting and handling background studies on employees;

(iii) orientation, training, and competency evaluations of home care staff, and a process for evaluating staff performance;

(iv) handling complaints from clients, family members, or client representatives regarding staff or services provided by staff;

- (v) conducting initial evaluation of clients' needs and the providers' ability to provide those services;
 - (vi) conducting initial and ongoing client evaluations and assessments and how changes in a client's condition are identified, managed, and communicated to staff and other health care providers as appropriate;
 - (vii) orientation to and implementation of the home care client bill of rights;
 - (viii) infection control practices;
 - (ix) reminders for medications, treatments, or exercises, if provided; and
 - (x) conducting appropriate screenings, or documentation of prior screenings, to show that staff are free of tuberculosis, consistent with current United States Centers for Disease Control and Prevention standards; and
- (15) other information required by the department.

Subd. 2. Comprehensive home care license applications. In addition to the information and fee required in subdivision 1, applicants applying for a comprehensive home care license must also provide verification that the applicant has the following policies and procedures in place so that if a license is issued, the applicant will implement the policies and procedures in this subdivision and keep them current:

- (1) conducting initial and ongoing assessments of the client's needs by a registered nurse or appropriate licensed health professional, including how changes in the client's conditions are identified, managed, and communicated to staff and other health care providers, as appropriate;
- (2) ensuring that nurses and licensed health professionals have current and valid licenses to practice;
- (3) medication and treatment management;
- (4) delegation of home care tasks by registered nurses or licensed health professionals;
- (5) supervision of registered nurses and licensed health professionals; and
- (6) supervision of unlicensed personnel performing delegated home care tasks.

Subd. 3. License renewal. (a) Except as provided in section 144A.475, a license may be renewed for a period of one year if the licensee satisfies the following:

- (1) submits an application for renewal in the format provided by the commissioner at least 30 days before expiration of the license;
- (2) submits the renewal fee in the amount specified in subdivision 7;
- (3) has provided home care services within the past 12 months;
- (4) complies with sections 144A.43 to 144A.4798;
- (5) provides information sufficient to show that the applicant meets the requirements of licensure, including items required under subdivision 1;
- (6) provides verification that all policies under subdivision 1 are current; and
- (7) provides any other information deemed necessary by the commissioner.

(b) A renewal applicant who holds a comprehensive home care license must also provide verification that policies listed under subdivision 2 are current.

Subd. 4. **Multiple units.** Multiple units or branches of a licensee must be separately licensed if the commissioner determines that the units cannot adequately share supervision and administration of services from the main office.

Subd. 5. **Transfers prohibited; changes in ownership.** Any home care license issued by the commissioner may not be transferred to another party. Before acquiring ownership of a home care provider business, a prospective applicant must apply for a new temporary license. A change of ownership is a transfer of operational control to a different business entity and includes:

(1) transfer of the business to a different or new corporation;

(2) in the case of a partnership, the dissolution or termination of the partnership under chapter 323A, with the business continuing by a successor partnership or other entity;

(3) relinquishment of control of the provider to another party, including to a contract management firm that is not under the control of the owner of the business' assets;

(4) transfer of the business by a sole proprietor to another party or entity; or

(5) in the case of a privately held corporation, the change in ownership or control of 50 percent or more of the outstanding voting stock.

Subd. 6. **Notification of changes of information.** The temporary licensee or licensee shall notify the commissioner in writing within ten working days after any change in the information required in subdivision 1, except the information required in subdivision 1, clause (5), is required at the time of license renewal.

Subd. 7. **Fees; application, change of ownership, and renewal.** (a) An initial applicant seeking temporary home care licensure must submit the following application fee to the commissioner along with a completed application:

(1) for a basic home care provider, \$2,100; or

(2) for a comprehensive home care provider, \$4,200.

(b) A home care provider who is filing a change of ownership as required under subdivision 5 must submit the following application fee to the commissioner, along with the documentation required for the change of ownership:

(1) for a basic home care provider, \$2,100; or

(2) for a comprehensive home care provider, \$4,200.

(c) A home care provider who is seeking to renew the provider's license shall pay a fee to the commissioner based on revenues derived from the provision of home care services during the calendar year prior to the year in which the application is submitted, according to the following schedule:

License Renewal Fee

Provider Annual Revenue	Fee
greater than \$1,500,000	\$6,625

greater than \$1,275,000 and no more than \$1,500,000	\$5,797
greater than \$1,100,000 and no more than \$1,275,000	\$4,969
greater than \$950,000 and no more than \$1,100,000	\$4,141
greater than \$850,000 and no more than \$950,000	\$3,727
greater than \$750,000 and no more than \$850,000	\$3,313
greater than \$650,000 and no more than \$750,000	\$2,898
greater than \$550,000 and no more than \$650,000	\$2,485
greater than \$450,000 and no more than \$550,000	\$2,070
greater than \$350,000 and no more than \$450,000	\$1,656
greater than \$250,000 and no more than \$350,000	\$1,242
greater than \$100,000 and no more than \$250,000	\$828
greater than \$50,000 and no more than \$100,000	\$500
greater than \$25,000 and no more than \$50,000	\$400
no more than \$25,000	\$200

(d) If requested, the home care provider shall provide the commissioner information to verify the provider's annual revenues or other information as needed, including copies of documents submitted to the Department of Revenue.

(e) At each annual renewal, a home care provider may elect to pay the highest renewal fee for its license category, and not provide annual revenue information to the commissioner.

(f) A temporary license or license applicant, or temporary licensee or licensee that knowingly provides the commissioner incorrect revenue amounts for the purpose of paying a lower license fee, shall be subject to a civil penalty in the amount of double the fee the provider should have paid.

(g) Fees and penalties collected under this section shall be deposited in the state treasury and credited to the state government special revenue fund.

(h) The license renewal fee schedule in this subdivision is effective July 1, 2016.

History: 2013 c 108 art 11 s 11; 2014 c 275 art 1 s 135

144A.4792 MEDICATION MANAGEMENT.

Subdivision 1. **Medication management services; comprehensive home care license.** (a) This subdivision applies only to home care providers with a comprehensive home care license that provide medication management services to clients. Medication management services may not be provided by a home care provider who has a basic home care license.

(b) A comprehensive home care provider who provides medication management services must develop, implement, and maintain current written medication management policies and procedures. The policies and procedures must be developed under the supervision and direction of a registered nurse, licensed health professional, or pharmacist consistent with current practice standards and guidelines.

(c) The written policies and procedures must address requesting and receiving prescriptions for medications; preparing and giving medications; verifying that prescription drugs are administered as prescribed; documenting medication management activities; controlling and storing medications; monitoring and evaluating medication use; resolving medication errors; communicating with the prescriber, pharmacist, and client and client representative, if any; disposing of unused medications; and educating clients and client representatives about medications. When controlled substances are being managed, the policies and procedures must also identify how the provider will ensure security and accountability for the overall management, control, and disposition of those substances in compliance with state and federal regulations and with subdivision 22.

Subd. 2. **Provision of medication management services.** (a) For each client who requests medication management services, the comprehensive home care provider shall, prior to providing medication management services, have a registered nurse, licensed health professional, or authorized prescriber under section 151.37 conduct an assessment to determine what medication management services will be provided and how the services will be provided. This assessment must be conducted face-to-face with the client. The assessment must include an identification and review of all medications the client is known to be taking. The review and identification must include indications for medications, side effects, contraindications, allergic or adverse reactions, and actions to address these issues.

(b) The assessment must identify interventions needed in management of medications to prevent diversion of medication by the client or others who may have access to the medications. "Diversion of medications" means the misuse, theft, or illegal or improper disposition of medications.

Subd. 3. **Individualized medication monitoring and reassessment.** The comprehensive home care provider must monitor and reassess the client's medication management services as needed under subdivision 2 when the client presents with symptoms or other issues that may be medication-related and, at a minimum, annually.

Subd. 4. **Client refusal.** The home care provider must document in the client's record any refusal for an assessment for medication management by the client. The provider must discuss with the client the possible consequences of the client's refusal and document the discussion in the client's record.

Subd. 5. **Individualized medication management plan.** (a) For each client receiving medication management services, the comprehensive home care provider must prepare and include in the service plan a written statement of the medication management services that will be provided to the client. The provider must develop and maintain a current individualized medication management record for each client based on the client's assessment that must contain the following:

- (1) a statement describing the medication management services that will be provided;

(2) a description of storage of medications based on the client's needs and preferences, risk of diversion, and consistent with the manufacturer's directions;

(3) documentation of specific client instructions relating to the administration of medications;

(4) identification of persons responsible for monitoring medication supplies and ensuring that medication refills are ordered on a timely basis;

(5) identification of medication management tasks that may be delegated to unlicensed personnel;

(6) procedures for staff notifying a registered nurse or appropriate licensed health professional when a problem arises with medication management services; and

(7) any client-specific requirements relating to documenting medication administration, verifications that all medications are administered as prescribed, and monitoring of medication use to prevent possible complications or adverse reactions.

(b) The medication management record must be current and updated when there are any changes.

Subd. 6. **Administration of medication.** Medications may be administered by a nurse, physician, or other licensed health practitioner authorized to administer medications or by unlicensed personnel who have been delegated medication administration tasks by a registered nurse.

Subd. 7. **Delegation of medication administration.** When administration of medications is delegated to unlicensed personnel, the comprehensive home care provider must ensure that the registered nurse has:

(1) instructed the unlicensed personnel in the proper methods to administer the medications, and the unlicensed personnel has demonstrated the ability to competently follow the procedures;

(2) specified, in writing, specific instructions for each client and documented those instructions in the client's records; and

(3) communicated with the unlicensed personnel about the individual needs of the client.

Subd. 8. **Documentation of administration of medications.** Each medication administered by comprehensive home care provider staff must be documented in the client's record. The documentation must include the signature and title of the person who administered the medication. The documentation must include the medication name, dosage, date and time administered, and method and route of administration. The staff must document the reason why medication administration was not completed as prescribed and document any follow-up procedures that were provided to meet the client's needs when medication was not administered as prescribed and in compliance with the client's medication management plan.

Subd. 9. **Documentation of medication setup.** Documentation of dates of medication setup, name of medication, quantity of dose, times to be administered, route of administration, and name of person completing medication setup must be done at the time of setup.

Subd. 10. **Medication management for clients who will be away from home.** (a) A home care provider who is providing medication management services to the client and controls the client's access to the medications must develop and implement policies and procedures for giving accurate and current medications to clients for planned or unplanned times away from home according to the client's individualized medication management plan. The policy and procedures must state that:

(1) for planned time away, the medications must be obtained from the pharmacy or set up by the registered nurse according to appropriate state and federal laws and nursing standards of practice;

(2) for unplanned time away, when the pharmacy is not able to provide the medications, a licensed nurse or unlicensed personnel shall give the client or client's representative medications in amounts and dosages needed for the length of the anticipated absence, not to exceed 120 hours;

(3) the client or client's representative must be provided written information on medications, including any special instructions for administering or handling the medications, including controlled substances;

(4) the medications must be placed in a medication container or containers appropriate to the provider's medication system and must be labeled with the client's name and the dates and times that the medications are scheduled; and

(5) the client or client's representative must be provided in writing the home care provider's name and information on how to contact the home care provider.

(b) For unplanned time away when the licensed nurse is not available, the registered nurse may delegate this task to unlicensed personnel if:

(1) the registered nurse has trained the unlicensed staff and determined the unlicensed staff is competent to follow the procedures for giving medications to clients; and

(2) the registered nurse has developed written procedures for the unlicensed personnel, including any special instructions or procedures regarding controlled substances that are prescribed for the client. The procedures must address:

(i) the type of container or containers to be used for the medications appropriate to the provider's medication system;

(ii) how the container or containers must be labeled;

(iii) the written information about the medications to be given to the client or client's representative;

(iv) how the unlicensed staff must document in the client's record that medications have been given to the client or the client's representative, including documenting the date the medications were given to the client or the client's representative and who received the medications, the person who gave the medications to the client, the number of medications that were given to the client, and other required information;

(v) how the registered nurse shall be notified that medications have been given to the client or client's representative and whether the registered nurse needs to be contacted before the medications are given to the client or the client's representative; and

(vi) a review by the registered nurse of the completion of this task to verify that this task was completed accurately by the unlicensed personnel.

Subd. 11. Prescribed and nonprescribed medication. The comprehensive home care provider must determine whether the comprehensive home care provider shall require a prescription for all medications the provider manages. The comprehensive home care provider must inform the client or the client's representative whether the comprehensive home care provider requires a prescription for all over-the-counter and dietary supplements before the comprehensive home care provider agrees to manage those medications.

Subd. 12. **Medications; over-the-counter; dietary supplements not prescribed.** A comprehensive home care provider providing medication management services for over-the-counter drugs or dietary supplements must retain those items in the original labeled container with directions for use prior to setting up for immediate or later administration. The provider must verify that the medications are up-to-date and stored as appropriate.

Subd. 13. **Prescriptions.** There must be a current written or electronically recorded prescription as defined in section 151.01, subdivision 16a, for all prescribed medications that the comprehensive home care provider is managing for the client.

Subd. 14. **Renewal of prescriptions.** Prescriptions must be renewed at least every 12 months or more frequently as indicated by the assessment in subdivision 2. Prescriptions for controlled substances must comply with chapter 152.

Subd. 15. **Verbal prescription orders.** Verbal prescription orders from an authorized prescriber must be received by a nurse or pharmacist. The order must be handled according to Minnesota Rules, part 6800.6200.

Subd. 16. **Written or electronic prescription.** When a written or electronic prescription is received, it must be communicated to the registered nurse in charge and recorded or placed in the client's record.

Subd. 17. **Records confidential.** A prescription or order received verbally, in writing, or electronically must be kept confidential according to sections 144.291 to 144.298 and 144A.44.

Subd. 18. **Medications provided by client or family members.** When the comprehensive home care provider is aware of any medications or dietary supplements that are being used by the client and are not included in the assessment for medication management services, the staff must advise the registered nurse and document that in the client's record.

Subd. 19. **Storage of medications.** A comprehensive home care provider providing storage of medications outside of the client's private living space must store all prescription medications in securely locked and substantially constructed compartments according to the manufacturer's directions and permit only authorized personnel to have access.

Subd. 20. **Prescription drugs.** A prescription drug, prior to being set up for immediate or later administration, must be kept in the original container in which it was dispensed by the pharmacy bearing the original prescription label with legible information including the expiration or beyond-use date of a time-dated drug.

Subd. 21. **Prohibitions.** No prescription drug supply for one client may be used or saved for use by anyone other than the client.

Subd. 22. **Disposition of medications.** (a) Any current medications being managed by the comprehensive home care provider must be given to the client or the client's representative when the client's service plan ends or medication management services are no longer part of the service plan. Medications that have been stored in the client's private living space for a client who is deceased or that have been discontinued or that have expired may be given to the client or the client's representative for disposal.

(b) The comprehensive home care provider will dispose of any medications remaining with the comprehensive home care provider that are discontinued or expired or upon the termination of the service contract or the client's death according to state and federal regulations for disposition of medications and controlled substances.

(c) Upon disposition, the comprehensive home care provider must document in the client's record the disposition of the medication including the medication's name, strength, prescription number as applicable, quantity, to whom the medications were given, date of disposition, and names of staff and other individuals involved in the disposition.

Subd. 23. **Loss or spillage.** (a) Comprehensive home care providers providing medication management must develop and implement procedures for loss or spillage of all controlled substances defined in Minnesota Rules, part 6800.4220. These procedures must require that when a spillage of a controlled substance occurs, a notation must be made in the client's record explaining the spillage and the actions taken. The notation must be signed by the person responsible for the spillage and include verification that any contaminated substance was disposed of according to state or federal regulations.

(b) The procedures must require the comprehensive home care provider of medication management to investigate any known loss or unaccounted for prescription drugs and take appropriate action required under state or federal regulations and document the investigation in required records.

History: 2013 c 108 art 11 s 20; 2014 c 275 art 1 s 26,135; 2016 c 179 s 12

144A.4795 HOME CARE PROVIDER RESPONSIBILITIES; STAFF.

Subdivision 1. **Qualifications, training, and competency.** All staff providing home care services must: (1) be trained and competent in the provision of home care services consistent with current practice standards appropriate to the client's needs; and (2) be informed of the home care bill of rights under section 144A.44.

Subd. 2. **Licensed health professionals and nurses.** (a) Licensed health professionals and nurses providing home care services as an employee of a licensed home care provider must possess a current Minnesota license or registration to practice.

(b) Licensed health professionals and registered nurses must be competent in assessing client needs, planning appropriate home care services to meet client needs, implementing services, and supervising staff if assigned.

(c) Nothing in this section limits or expands the rights of nurses or licensed health professionals to provide services within the scope of their licenses or registrations, as provided by law.

Subd. 3. **Unlicensed personnel.** (a) Unlicensed personnel providing basic home care services must have:

(1) successfully completed a training and competency evaluation appropriate to the services provided by the home care provider and the topics listed in subdivision 7, paragraph (b); or

(2) demonstrated competency by satisfactorily completing a written or oral test on the tasks the unlicensed personnel will perform and in the topics listed in subdivision 7, paragraph (b); and successfully demonstrated competency of topics in subdivision 7, paragraph (b), clauses (5), (7), and (8), by a practical skills test.

Unlicensed personnel providing home care services for a basic home care provider may not perform delegated nursing or therapy tasks.

(b) Unlicensed personnel performing delegated nursing tasks for a comprehensive home care provider must:

(1) have successfully completed training and demonstrated competency by successfully completing a written or oral test of the topics in subdivision 7, paragraphs (b) and (c), and a practical skills test on tasks listed in subdivision 7, paragraphs (b), clauses (5) and (7), and (c), clauses (3), (5), (6), and (7), and all the delegated tasks they will perform;

(2) satisfy the current requirements of Medicare for training or competency of home health aides or nursing assistants, as provided by Code of Federal Regulations, title 42, section 483 or 484.36; or

(3) have, before April 19, 1993, completed a training course for nursing assistants that was approved by the commissioner.

(c) Unlicensed personnel performing therapy or treatment tasks delegated or assigned by a licensed health professional must meet the requirements for delegated tasks in subdivision 4 and any other training or competency requirements within the licensed health professional scope of practice relating to delegation or assignment of tasks to unlicensed personnel.

Subd. 4. **Delegation of home care tasks.** A registered nurse or licensed health professional may delegate tasks only to staff who are competent and possess the knowledge and skills consistent with the complexity of the tasks and according to the appropriate Minnesota practice act. The comprehensive home care provider must establish and implement a system to communicate up-to-date information to the registered nurse or

licensed health professional regarding the current available staff and their competency so the registered nurse or licensed health professional has sufficient information to determine the appropriateness of delegating tasks to meet individual client needs and preferences.

Subd. 5. **Individual contractors.** When a home care provider contracts with an individual contractor excluded from licensure under section 144A.471 to provide home care services, the contractor must meet the same requirements required by this section for personnel employed by the home care provider.

Subd. 6. **Temporary staff.** When a home care provider contracts with a temporary staffing agency excluded from licensure under section 144A.471, those individuals must meet the same requirements required by this section for personnel employed by the home care provider and shall be treated as if they are staff of the home care provider.

Subd. 7. **Requirements for instructors, training content, and competency evaluations for unlicensed personnel.** (a) Instructors and competency evaluators must meet the following requirements:

(1) training and competency evaluations of unlicensed personnel providing basic home care services must be conducted by individuals with work experience and training in providing home care services listed in section 144A.471, subdivisions 6 and 7; and

(2) training and competency evaluations of unlicensed personnel providing comprehensive home care services must be conducted by a registered nurse, or another instructor may provide training in conjunction with the registered nurse. If the home care provider is providing services by licensed health professionals only, then that specific training and competency evaluation may be conducted by the licensed health professionals as appropriate.

(b) Training and competency evaluations for all unlicensed personnel must include the following:

(1) documentation requirements for all services provided;

(2) reports of changes in the client's condition to the supervisor designated by the home care provider;

(3) basic infection control, including blood-borne pathogens;

(4) maintenance of a clean and safe environment;

(5) appropriate and safe techniques in personal hygiene and grooming, including:

(i) hair care and bathing;

(ii) care of teeth, gums, and oral prosthetic devices;

(iii) care and use of hearing aids; and

(iv) dressing and assisting with toileting;

(6) training on the prevention of falls for providers working with the elderly or individuals at risk of falls;

(7) standby assistance techniques and how to perform them;

(8) medication, exercise, and treatment reminders;

(9) basic nutrition, meal preparation, food safety, and assistance with eating;

(10) preparation of modified diets as ordered by a licensed health professional;

(11) communication skills that include preserving the dignity of the client and showing respect for the client and the client's preferences, cultural background, and family;

(12) awareness of confidentiality and privacy;

(13) understanding appropriate boundaries between staff and clients and the client's family;

(14) procedures to utilize in handling various emergency situations; and

(15) awareness of commonly used health technology equipment and assistive devices.

(c) In addition to paragraph (b), training and competency evaluation for unlicensed personnel providing comprehensive home care services must include:

(1) observation, reporting, and documenting of client status;

(2) basic knowledge of body functioning and changes in body functioning, injuries, or other observed changes that must be reported to appropriate personnel;

(3) reading and recording temperature, pulse, and respirations of the client;

(4) recognizing physical, emotional, cognitive, and developmental needs of the client;

(5) safe transfer techniques and ambulation;

(6) range of motioning and positioning; and

(7) administering medications or treatments as required.

(d) When the registered nurse or licensed health professional delegates tasks, they must ensure that prior to the delegation the unlicensed personnel is trained in the proper methods to perform the tasks or procedures for each client and are able to demonstrate the ability to competently follow the procedures and perform the tasks. If an unlicensed personnel has not regularly performed the delegated home care task for a period of 24 consecutive months, the unlicensed personnel must demonstrate competency in the task to the registered nurse or appropriate licensed health professional. The registered nurse or licensed health professional must document instructions for the delegated tasks in the client's record.

History: 2013 c 108 art 11 s 23; 2014 c 275 art 1 s 135