

## 902 KAR 20:370. Operations and services; private duty nursing agencies.

RELATES TO: KRS 216B.010, 216B.015, 216B.040, 216B.042, 216B.045-216B.055, 216B.075, 216B.105-216B.131, 216B.990, 311.560(4), 314.011(8), 314.041, 314.051

STATUTORY AUTHORITY: KRS 216B.042(1)

NECESSITY, FUNCTION AND CONFORMITY: KRS 216B.042(1) requires the Kentucky Cabinet for Health Services to regulate health facilities and health services. This administrative regulation establishes licensure requirements for the operation of, and nursing services provided by, private duty nursing agencies.

Section 1. Definitions. (1) "Agency" means a private duty nursing agency.

(2) "Governing authority" or "licensee" means the individual, agency, partnership, or corporation, in which the ultimate responsibility and authority for the conduct of the institution is vested.

(3) "License" means an authorization issued by the cabinet for the purpose of operating a private duty nursing agency.

(4) "Licensed practical nurse" or "LPN" means a person licensed pursuant to KRS 314.051.

(5) "Private duty nursing agency" means an entity in the business of providing licensed nursing care to a patient in his or her home for a continuous block of time, in increments of at least four (4) hours, in which the private duty nursing agency supervises nursing care provided by agency personnel. It shall not include a registered nurse providing nursing services as an independent practitioner.

(6) "Registered nurse" or "RN" means a person licensed pursuant to KRS 314.041.

Section 2. Administration. (1) The licensee shall:

(a) Have legal responsibility for the service and for compliance with relevant federal, state and local law;

(b) Establish lines of authority; and

(c) Designate an administrator who shall be responsible for the daily operation of the agency.

(2) Policies. The licensee shall establish and enforce written administrative policies covering all aspects of operation, including:

(a) A description of organizational structure, staffing and allocation of responsibility and accountability;

(b) A description of linkages with inpatient facilities and other providers;

(c) Policies and procedures for the guidance and control of personnel performance;

(d) A narrative describing in detail:

1. The services offered by the agency;

2. Methods and protocols for service delivery; and

3. Qualifications of personnel involved in the delivery of the service;

(e) A description of the administrative and patient care records and reports;

(f) Procedures to be followed in the handling and administration of drugs and biologicals; and

(g) Patient care policies developed with the advice of a group of professional health providers, including one (1) or more physician and one (1) or more registered nurse, and shall include:

1. A description of the services provided;

2. A requirement for a written nursing care plan for a patient;

3. Guidelines to ensure coordination of treatment with other licensed health care providers servicing a patient;

4. Guidelines for the medical management of health problems including:

a. The conditions requiring medical consultation or patient referral; and

b. Maintenance of health records;

5. Procedures for the annual review and evaluation of the services provided;
6. Guidelines for patient and environment assessment; and
7. Guidelines to ensure that a patient is receiving adequate services for assistance with daily living activities.

(3) Personnel.

(a) Medical director. The agency shall have a medical director who shall be:

1. A licensed physician with specialized training and experience in medical services provided by the agency; and

2. Responsible for medical aspects of medical services provided by the agency.

(b) The agency shall provide adequate staffing to provide for effective patient care, in accordance with the terms and conditions of the contract with the patient.

(c) The licensee shall provide written personnel policies, which shall be:

1. Available to each employee;

2. Reviewed on an annual basis; and

3. Revised as necessary.

(d) There shall be a written job description for each position, which shall be reviewed and revised as necessary.

(e) There shall be an employee health and infection control program with provisions for tuberculin testing and titers necessary to the nursing service to be performed.

(f) The licensee shall maintain a current personnel record for each employee. Data maintained shall include:

1. Name, address and Social Security number;

2. Evidence of current registration, certification or licensure;

3. Records of training and experience;

4. Records of performance evaluation;

5. Current negative tuberculin skin test or chest x-ray for an employee having direct contact with a patient; and

6. Preemployment criminal conviction information for private duty nursing agency personnel who provide nursing care to a patient in his or her home.

(g) An employee of the program who has direct patient care responsibilities shall have current CPR certification from either the American Heart Association or the American Red Cross.

(h) In-service training. An employee shall participate in ongoing in-service training programs relating to the employee's job activities.

(4) Medical records.

(a) The service shall maintain a medical record for each patient, to include the following:

1. Medical and social history relevant to the service provided, including data obtainable from other providers;

2. Name of referring physician, or other ordering practitioner, if any, acting within the statutory scope of practice;

3. Orders of referring physician, or other ordering practitioner, if any, acting within the statutory scope of practice;

4. Description of each contact, including the:

a. Condition or reason necessitating contact;

b. Assessment;

c. Service provided;

d. Medication and treatment prescribed; and

e. Disposition made; and

5. Documentation of referrals made, including:

a. Reason for referral;

- b. To whom the patient was referred; and
- c. Information obtained from a referral source.
  - (b) Confidentiality of patient records shall be maintained at all times.
  - (c) Transfer of records. If the patient moves to another source of care, the agency shall:
    - 1. Establish systematic procedures to assist in continuity of care; and
    - 2. Transfer medical records if requested and upon the agency receiving a release signed by the patient or the patient's agent.
  - (d) Retention of records.
    - 1. After the death or discharge of an adult patient, the completed medical record shall be placed in an inactive file and retained for five (5) years;
    - 2. After the death or discharge of a minor patient, the record shall be placed in an inactive file and retained for five (5) years from the date of the event, or three (3) years after the patient reaches the age of majority, whichever is longer.
  - (e) The agency shall designate a specific location for the maintenance and storage of the agency's medical records.
  - (f) The agency shall have provisions for storage of medical records in the event the agency ceases to operate.
  - (g) The licensee shall safeguard the record and its content against loss, defacement or tampering.

Section 3. Nursing Services Provided by Private Duty Nursing Agencies. (1) Nursing services provided by a private duty nursing agency, if ordered by a physician or other ordering practitioner acting within the statutory scope of practice, shall be provided in accordance with a plan of treatment.

- (a) The plan of treatment shall be developed in consultation with the prescribing practitioner, agency personnel, and the patient, patient's family, family member or patient's responsible party.
- (b) The plan of treatment shall be reviewed by the ordering practitioner in consultation with agency personnel and the patient, patient's family member or patient's responsible party, at such intervals as the severity of the patient's illness requires, or at least once every two (2) months.
  - (2) Each private duty nursing agency service shall be nonabusive and provided in a manner which ensures the greatest amount of safety and security for the patient.
  - (3) Private duty nursing agency personnel shall ensure that medical waste generated as a result of a service shall be removed from a patient's home and disposed of properly.

Section 4. Licensing Procedures. (1) Initial licensure.

- (a) A private duty nursing agency applying for a license to operate shall return a completed L&R 144 to the Office of Inspector General along with the initial licensing fee of \$134.
  - (a) The Office of the Inspector General shall conduct an initial licensing inspection pursuant to 902 KAR 20:008.
  - (2) Relicensure. Prior to the date that the license to operate expires, a private duty nursing agency shall send a completed L&R 144 to the Office of the Inspector General along with the annual relicensure fee of \$134.

Section 5. Incorporation by Reference. (1) "Form L&R 144, Application for a License to Operate a Health Facility or Service, January 2001 edition" is incorporated by reference.

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