

Guidance to Home Care Agencies and Registries Licensed by Pennsylvania Department of Health

February 23, 2017

On November 23, 2016 the Wolf Administration issued a [policy clarification](#) through the departments of Health, Human Services, and State that clarifies the types of non-skilled services/activities that can be performed by direct care workers (DCWs) to assist individuals with disabilities with activities of daily living that could be performed independently but for their disability. DCWs include personal attendants, nursemaids, or other household aides.

These non-skilled activities/services include assistance with bowel and bladder routines, assistance with medication, ostomy care, clean intermittent catheterization, assistance with skin care, and wound care.

This specialized care provided in the consumer's place of residence or other independent living environment are types of home care services unique to the consumer's care needs that fall within the licensure exemption for unlicensed persons under the Professional Nursing Law and Practical Nursing Law. DCWs may perform these non-skilled services/activities, provided they do not represent or hold themselves out as being licensed nurses, licensed registered nurses, registered nurses, or practical nurses; or use in connection with their names, any designation tending to imply they are licensed to practice nursing.

The Department of Health will continue to monitor home care agencies and registries' compliance with Chapter 611 Home Care Regulations relative to the provision of specialized care to consumers and DCW competency requirements through surveys and complaint investigations. The guidance below is a tool for home care agencies and registries to utilize to comply with the Department of Health's Home Care Agency and Registry regulations.

Definitions

Direct Care Worker: individual employed by a home care agency or referred by a home care registry to provide home care services to a consumer.

Home care services: the term encompasses the following activities:

- (i) Personal care - The term includes, but is not limited to, assistance with self-administered medications, feeding, oral, skin and mouth care, shaving, assistance with ambulation, bathing, hair care and grooming, dressing, toileting, and transfer activities.
- (ii) Assistance with instrumental activities of daily living.
- (iii) Companionship services.
- (iv) Respite care.
- (v) **Specialized care** - Nonskilled services/activities unique to the consumer's care needs that facilitate the consumer's health, safety and welfare, and ability to live independently.

Consumer Characteristics

The non-skilled activities/services are specialized care that are unique to the individual consumer's care needs that facilitate the consumer's health, safety and welfare, and ability to live independently. This applies to consumers regardless of age or nature of disability.

A DCW may perform the non-skilled activities/services included in this policy only for a consumer whose characteristics meet all of the following guidelines:

1. The consumer is capable of directing his or her own care or has a health care representative or agent who is capable to make choices for the consumer about home care services, understands the impact of these choices, and assumes responsibility for the results of the choices.
2. The specific non-skilled activity/service provided is of a nature that the consumer would be able to perform independently but for his or her disability.
3. The consumer's service plan documents that the consumer has a need for assistance with the non-skilled activity/service to facilitate the ability to live independently while maintaining his or her health, safety, and welfare, as defined by the consumer, the consumer's health care representative, or the consumer's agent.
4. The consumer has an order from a health care practitioner, service authorization form, or service plan/agreement that authorizes the home care agency/registry to provide the non-skilled service/activity. The order, service authorization form, or service plan/agreement is renewed yearly or when a significant change in condition occurs.
5. The consumer's health conditions, care needs, and the outcomes of the non-skilled service/activity are generally predictable to the consumer.

Home Care Agency/Registry Responsibility

Prior to assigning a DCW employee to provide the non-skilled activities/services included in this policy, the home care agency or registry must evaluate the DCW and document that the DCW has received training and demonstrated competency in any specialized care activities/services that the DCW will provide to the consumer, per 28. Pa. Code Section 611.55.

Training and demonstrated competency must be individualized for each consumer, take into consideration the service delivery preferences of the consumer, and emphasize delivery methods that ensure the safety and maintain the dignity of the consumer. The home care agency or registry should ensure an individual meets the consumer characteristics defined above after initial assessment.

28 Pa. Code Section 611.55 Competency requirements.

(a) Prior to assigning or referring a direct care worker to provide services to a consumer, the home care agency or home care registry shall ensure that the direct care worker has done one of the following:

(1) Obtained a valid nurse's license in this Commonwealth.

(2) Demonstrated competency by passing a competency examination developed by the home care agency or home care registry which meets the requirements of subsections (b) and (c).

(3) Successfully completed one of the following:

(i) A training program developed by a home care agency, home care registry, or other entity which meets the requirements of subsections (b) and (c).

(ii) A home health aide training program meeting the requirements of 42 CFR 484.36 (relating to the conditions of participation; home health aide services).

(iii) The nurse aid certification and training program sponsored by the Department of Education and located at www.pde.state.pa.us.

(iv) A training program meeting the training standards imposed on the agency or registry by virtue of the agency's or registry's participation as a provider in a Medicaid Waiver or other publicly funded program providing home and community based services to qualifying consumers. *

(v) Another program identified by the department by subsequent publication in the Pennsylvania Bulletin or on the department's web site – www.health.pa.gov.

(b) A competency examination or training program developed by an agency or registry for a direct care worker must address, at a minimum, the following subject areas:

- (1) Confidentiality.
- (2) Consumer control and the independent living philosophy.
- (3) Instrumental activities of daily living.
- (4) Recognizing changes in the consumer that need to be addressed.
- (5) Basic infection control.
- (6) Universal precautions.
- (7) Handling of emergencies.
- (8) Documentation.
- (9) Recognizing and reporting abuse or neglect.
- (10) Dealing with difficult behaviors.

(c) A competency examination or training program developed by an agency or registry for a direct care worker who will provide personal care must address the following additional subject areas:

- (1) Bathing, shaving, grooming, and dressing.
- (2) Hair, skin, and mouth care.
- (3) Assistance with ambulation and transferring.

(4) Meal preparation and feeding.

(5) Toileting.

(6) Assistance with self-administered medications.

(d) The home care agency or home care registry shall include documentation of the direct care worker's satisfactory completion of competency requirements in the direct care worker's file. If the direct care worker has a nurse's license or other licensure or certification as a health professional, the individual's file shall include a copy of the current license or certification. Documentation of satisfactory completion of competency requirements is transferable from one home care agency or registry to another home care agency or registry, provided the break in the individual's employment or roster status does not exceed 12 months.

(e) The home care agency or home care registry also shall include documentation in the direct care worker's file that the agency or registry has reviewed the individual's competency to perform assigned duties through direct observation, testing, training, consumer feedback, or other method approved by the department or through a combination of methods. The competency review must occur at least once per year after initial competency is established, and more frequently when discipline or other sanction, including, for example, a verbal warning or suspension is imposed because of a quality of care infraction.

** Notwithstanding the department's clarification relating to competency requirements, DHS's licensing requirements relating to Medication Administration and any other licensing or Medicaid participation requirement must be in compliance.*