



STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Richard F. Daines, M.D.
Commissioner

James W. Clyne, Jr.
Executive Deputy Commissioner

September 17, 2009

DAL: HCBS 09-13
SUBJECT: Chapter 594 of the Laws of 2008

Dear Administrator:

Chapter 594 of the Laws of 2008 establishes the Home Care Registry (HCR), a web-based registry of all personal care and home health aides who have successfully completed a personal care or home health aide training program approved by either the New York State Department of Health (DOH) or State Education Department (SED). The goal of this statute is to protect vulnerable New Yorkers by ensuring that only properly trained and certified individuals who are suitable for employment in home care are employed by home care services agencies to provide home care.

The registry does not affect the ability of home health aide trainees to complete the required portion of their supervised practical training in a patient care setting. Home health aide trainees must continue to demonstrate their skills on patients in the home or other appropriate health care setting under supervision for the required 8 hours. Authorized training activities are not considered to be "services" requiring listing on the registry.

The attached preliminary guidance outlines the statute's requirements, as well as proposed regulatory requirements, and applies to both SED and DOH approved training programs and home care services agencies licensed under Article 36 of the Public Health Law. Covered agencies include licensed home care services agencies, limited licensed home care services agencies, certified home health agencies and long term home health care programs.

Training programs and home care agencies are the source for most of the information in the HCR on specific aides. Training programs and home care agencies must submit the required information on trainees and aides to the HCR through the Health Provider Network/Health Commerce System (HPN/HCS). All home care agencies and SED training programs should have HPN accounts and HPN Coordinators. Home care agencies and their associated training programs (and DOH-approved training programs that are not associated with a home care agency) that do not have HPN accounts, or who are unsure whether they have an account, should contact Rick Kubis at (518) 408-1245. SED approved training programs that do not have an HPN account, or who are unsure whether they have an account, should phone Robin Tice at (518) 473-6617.

HPN Coordinators should assign new HPN/HCR roles to staff. When finalized, these roles will be available and defined on HPN/HCS and training programs and agencies will be notified. Only an authorized person may submit the required information on trainees and aides to the HCR. Each training program and home care agency must designate at least two authorized persons to access and enter data in the HCR and must submit the names, positions and contact information for each authorized person to the Department through the training program's or home care agency's HPN account. Personal care aides and home health aides or trainees may submit information to an authorized person for inclusion in the registry.

The DOH is currently providing information sessions on the HCR, its requirements, and how to enter the required information on classes, trainees and aides. Consult the HCR Alert(s) posted on the HPN for dates, locations and instructions on how to register for the training sessions. Additional educational materials on how to use the HCR will also be posted on the HPN.

The attached guidance document is preliminary and provides training programs and home care services agencies information on their responsibilities. You are strongly urged to register for one of the informational sessions which are being held by the Department. Please check the HPN daily for additional information.

Thank you for your attention to this important initiative.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark L. Kissinger". The signature is fluid and cursive, with a horizontal line extending from the end.

Mark L. Kissinger
Deputy Commissioner
Office of Long Term Care

Attachment

PRELIMINARY GUIDANCE ON THE HOME CARE REGISTRY

The Home Care Registry will be implemented on September 25, 2009. As of this date, the following requirements apply to all DOH and SED training programs and to all home care agencies:

1. General requirements for all DOH and SED approved training programs:

- Each training program must designate at least one “certifying official”. The certifying official is a senior official with oversight responsibility for the training program who is authorized to execute a legally binding instrument on behalf of the operator of the program. The certifying official may be the operator if appropriate.
- The certifying official is required to sign a written sworn statement, made under penalty of perjury, certifying that each person entered into the registry by the training program has in fact successfully completed the identified training, identifying each person by name, address, date of birth, and date on which such training was successfully completed, and describing the nature of the education or training covered in the program.
- The written sworn statement is generated by the Department of Health through the HCR. It cannot be modified or amended in any way. The certifying official’s name will be printed on the form. Only the official whose name is printed on the form may sign it.
- The sworn statement must be signed within five business days of the day on which the trainee successfully completes the training program.
- The training program does not submit sworn statements to the DOH but rather maintains this documentation in its files to be reviewed by DOH surveyors and other government investigators during survey or other onsite visits.
- For training classes that begin on or after September 25, 2009, training programs may no longer issue certificates of their own design. Instead, the certificate issued to the aide upon successful completion of the training program will be generated from the HCR. The certificate must be signed by two individuals. If the training program is a PCATP, the certificate is signed by the Director/Coordinator and Nurse Instructor for personal care skills. If the training program is an HHATP, the certificate is signed by the Supervising Nurse (who is responsible for the supervised practical portion of the training) and the Official Agency Designee. The certificate must be printed, signed and given to the aide within five business days of the day the certifying official has signed the sworn statement.

- “Successfully complete” means, in connection with home health aide training, compliance with 10 NYCRR 700.2(b)(9). In connection with personal care aide training, it means compliance with 18 NYCRR 505.14(e).
- **Please note that the registry does not affect the ability of trainees to complete their supervised practical training in a patient care setting. Trainees may continue to demonstrate their skills on patients in the home or other appropriate health care setting under supervision. Authorized training activities are not considered to be “services” requiring listing on the registry.**

2. Training program requirements concerning classes: All DOH and SED approved personal care and home health aide training programs must, for classes that begin on or after September 25, 2009:

- a. Submit the following information through the HCR on the HPN no later than 5 business days after the commencement of the class:
 - Name and date of birth of each person in the class;
 - The location, dates and times where the classroom portion of the program will be held;
 - The name, title and qualifications of the person(s) who will be delivering the classroom instruction; and
 - The anticipated date of graduation.
- b. Maintain in their records a sworn statement for all students who successfully complete the training program. The sworn statement, printed from the HCR, also includes certification that proof of the identity of each aide listed on the sworn statement has been obtained.

3. Training program requirements concerning trainees and aides: All DOH and SED approved personal care and home health aide training programs must, for each trainee who begins a training program on or after September 25, 2009:

- a. Verify and document the trainee’s identity by examining at least one of the following unexpired documents:
 - Driver’s license or identification card issued by a State or outlying possession of the United States, provided it contains a photograph or information such as name, date of birth, gender, height, eye color and address;
 - Identification card issued by federal, state or local government agencies or entities, provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address;

- School identification card with a photograph;
 - Voter's registration card;
 - United States Military card or draft record;
 - Military dependent's identification card;
 - United States Coast Guard Merchant Mariner Card;
 - Native American tribal document;
 - Driver's license issued by a Canadian government authority;
 - United States Passport or United States Passport Card;
 - Permanent Resident Card or Alien Registration Receipt Card; or
 - Employment Authorization Document that contains a photograph.
- b. For any such document examined, information regarding the document title, issuing authority, document number and expiration date, if any, must be recorded and maintained in the permanent records of the training program. If the trainee fails to provide any of the documents specified above, the training program must deny participation in the program.
- c. Submit to the HCR on the HPN the following information on each trainee who successfully completes the training program to complete the trainee's profile information and maintain this information in its permanent records:
- Complete name information, including pre-marital name and any other names currently or previously used.
 - Current home address;
 - Gender;
- d. Maintain compliance with the following requirements:
- The above information for an aide must be submitted to the HCR through the training program's HPN account within five business days of the aide's successful completion of the training program.
 - Upon request of a trainee or a person who has successfully completed an approved program, and upon proof of identity, provide access to complete registry

information relating to the trainee or person, including a printed report if requested.

- Within 5 business days after a request by a trainee or a person who has successfully completed an approved program, correct information entered incorrectly into the registry by the training program. A training program must request verification from the worker supporting the correction.
- Within 5 business days of signing the sworn statement, print and sign the aide's certificate of completion. The original copy must be maintained by the training entity and a copy of the signed certificate must be provided to the aide. Additional copies of the certificate can be printed with a "duplicate" stamp.
- DOH and SED approved training programs must establish, maintain, and keep such records as are required to show compliance with HCR requirements for six years after the successful completion of training, unless otherwise directed by the Department or the New York State Education Department. Home care agencies must establish, maintain, and keep such records as are required to show compliance with HCR requirements for six years after the termination of a worker's employment, unless otherwise directed by the Department.
- Each training program and each home care agency must have policies and procedures that set forth how it will ensure compliance with HCR requirements.

4. Home care agency requirements: Home care agencies have the following responsibilities with respect to personal care and home health aides who began training on or after September 25, 2009 and successfully completed the training program:

- Access the aide's HCR information prior to the aide beginning to provide home care services for that agency.
- Ensure that aides do not provide home health aide services unless the aide's training information has been posted to the HCR *by the training program*. Employers may not post this information for the aide.

For all personal care and home health aides who successfully completed training before September 25, 2009, prior to the aide beginning to provide services, an agency must access the aide's registry information. If the aide is not yet listed in the HCR, the agency must, *prior to the aide beginning to provide services*:

- a. Obtain a copy of the certificate issued to the prospective employee by the training program and verify that it is valid; and
- b. Obtain and enter on the HCR the following information for the aide:

- Full name, including pre-marital name and any other names currently or previously used;
 - Current home address;
 - Gender;
 - Date of birth;
 - Name of each state approved education or training program successfully completed, the name of the entity providing the program, and the date on which the program was completed; and
 - History of work in home care services through any home care services entity, including dates of employment and name of entity providing the employment.
- c. Maintain compliance with the following with respect to personal care and home health aides employed on or after September 25, 2009:
- Within 5 business days after the aide begins to provide services, update the aide's information on the HCR to show the aide's employment with the agency, including the start date.
 - Within 5 business days after receiving information from an aide who is not in the HCR, update the HCR to include the aide's information. If the information is a change of name, obtain and retain documentation of the change. Acceptable documentation of name change is a copy of a certificate of marriage, decree of divorce, or other court order authorizing a person to change his or her name.
 - Within 5 business days after an aide's employment with the agency is terminated, update the HCR with the date on which the aide's employment with the agency was terminated.
 - Upon request of any aide currently employed by the agency, provide access to complete HCR information relating to the aide, including a printed report if requested.
 - Within 5 business days after a request by an aide, correct information in the HCR that was entered incorrectly by the agency. An agency must request verification from the aide supporting the correction. If the correction involves a change of name, obtain and retain documentation of the change. Acceptable documentation of name change is a copy of a certificate of marriage, decree of divorce, or other court order authorizing a person to change his or her name.

- 5. Home care agency requirement:** For every personal care or home health aide who is employed by an agency on September 25, 2009, the agency must:
- a. Check the registry to see if aide's information has already been entered. If so, update the aide's profile with current employment information.
 - b. Submit to the HCR on the HPN, according to the quarterly submission schedule shown below, all of the following information:
 - Full name, including pre-marital name and any other names currently or previously used;
 - Current home address;
 - Gender;
 - Date of birth;
 - Name of each state approved education or training program successfully completed, the name of the entity providing the program, and the date on which the program was completed; and
 - History of work in home care services through any home care services entity, including dates of employment and name of entity providing the employment.
 - c. The law requires all current aides to be entered into the Registry by September 25, 2010. The Department has provided the following quarterly schedule to enter this information.
 - Aides whose last name begins with A – F: by December 24, 2009.
 - Aides whose last name begins with G – L: by March 24, 2010.
 - Aides whose last name begins with M – R: by June 24, 2010.
 - Aides whose last name begins with S – Z: by September 24, 2010.
 - d. Agencies are required to submit this information for all aides in their employment on September 25, 2009 even if the aide no longer works for the agency at the time the agency must submit the information in accordance with the schedule above.

Agencies are advised to collect this information for each aide in their employment on September 25, 2009, before the aide's employment ends. See requirement 6 below.

- 6. Personal care and home health aide requirements:** Personal care and home health aides also have specific responsibilities in regard to the HCR.
- a. Aides who begin training on or after September 25, 2009 and successfully complete such have the following responsibilities:

- The aide must retain in good order the certificate of successful completion of training and display it to a prospective employer when requested;
 - If an aide discovers that the training program incorrectly entered information regarding her or himself in the HCR, the aide must provide corrected information, including any verification of the name change to the employer;
 - If any information required for the HCR changes, the aide must inform the employer of the changes and provide verification of the change as requested by the employer;
 - If an aide changes his or her name, the aide must provide proof of the name change to the employer. The employer will change the aide's name in the HCR and must retain a copy of the proof submitted in its permanent records. Appropriate proof of change of name includes copy of a certificate of marriage, decree of divorce, or other court order authorizing a person to change his or her name.
- b. Aides employed by a home care agency on September 25, 2009, must provide their employer with the following information no later than 5 business days before September 25, 2009 or date of hire if date of hire is after September 18, 2009:
- Full name, including pre-marital name and any other names currently or previously used;
 - Current home address;
 - Gender;
 - Date of birth;
 - Name of each state approved education or training program successfully completed, the name of the entity providing the program, and the date on which the program was completed; and
 - History of work in home care services through any home care services agency, including dates of employment and name of agency providing the employment.
- c. If an aide discovers that an employer incorrectly entered information regarding the worker in the HCR, the aide must provide corrected information, including any verification of the information that may be requested, to the employer;
- d. If any information required for the HCR changes, the aide must inform the employer of the changes and provide any verification of the change requested by the employer;

- e. If an aide changes his or her name, the aide must provide proof of the name change to the employer. The employer will change the aide's name in the HCR and must retain a copy of the proof submitted in its permanent records. Appropriate proof of change of name includes copy of a certificate of marriage, decree of divorce, or other court order authorizing a person to change his or her name.