

SECTION 3613

Home care services workers

Public Health (PBH) CHAPTER 45, ARTICLE 36

§ 3613. Home care services workers. 1. As used in this section, the following terms shall have the following meanings:

* (a) "Home care services entity" means a home care services agency or other entity providing home care services subject to this article or exempt under section thirty-six hundred nineteen of this article, or an enhanced assisted living residence licensed under article seven of the social services law and certified under article forty-six-B of this chapter providing enhanced assisted living services. A hospice program under article forty of this chapter providing hospice care in a patient's home shall be considered a home care services entity only for the purpose of compliance with the home care services worker registry.

* NB Effective until March 31, 2029

* (a) "Home care services entity" means a home care services agency or other entity providing home care services subject to this article or exempt under section thirty-six hundred nineteen of this article.

* NB Effective March 31, 2029

(b) "Home care services worker" or "worker" means any person engaged in or applying to become engaged in providing home health aide services, as defined in subdivision four of section three thousand six hundred two of this article or "personal care services", as defined in subdivision five of section three thousand six hundred two of this article.

(c) "Home care services worker registry" or "registry" means the home care services worker registry established by this section.

(d) "State-approved education or training program" or "program" means a program that provides education or training for persons to meet any requirement established by the department for providing home health aide

services or personal care services, which program is approved by the department or the state education department.

1-a. Each home care services worker shall obtain an individual unique identifier from the state by or before a date determined by the commissioner in consultation with the Medicaid inspector general. Any personal information submitted to obtain such unique identifier shall be maintained as confidential pursuant to article six-A of the public officers law ("New York state privacy protection law").

2. The department shall develop and maintain a home care services worker registry of persons who have successfully completed a state-approved education or training program. Information in the registry shall be readily accessible on the department's website by the public, home care services workers, and home care services entities, subject to subdivision seven of this section. A home care services entity shall obtain information relating to a home care services worker, pursuant to paragraph (c) of subdivision seven of this section, prior to the worker beginning to provide home care services for that entity, except that a home care services worker employed by any entity prior to the effective date of this section may provide home care services as provided in subdivision eight of this section. No employer of a home care services worker other than a home care services entity shall be required to obtain information from the registry.

3. The registry shall include, but not be limited to, the following information concerning each person who has successfully completed a state-approved education or training program that is listed in the registry:

(a) Full name, including pre-marital name and any other names currently or previously used;

(b) Current home address;

(c) Gender;

(d) Date of birth;

(e) 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;

(f) History of work in home care services through any home care services entity, including dates of employment and name of entity providing the employment;

(g) Final findings made in accordance with the provisions of statutorily established proceedings subject to the state administrative procedure act or other similar law, that the person engaged in physical abuse, mistreatment, neglect or misappropriation of a patient's property, while serving the patient as a home care services worker or in another capacity, the name of the governmental agency, case number if a number is assigned, and date of determination, together with any statement concerning such determination submitted by the person, that may not identify any other person and may not exceed one hundred fifty words; and

(h) A record of any determination of the department regarding the approval or disapproval of a prospective employee pursuant to subdivision five of section eight hundred forty-five-b of the executive law, together with any statement concerning such determination submitted by the person, that may not identify any other person and may not exceed one hundred fifty words.

4. The registry shall include a comprehensive list of all state-approved education or training programs. The list shall be updated at least monthly by the department and the state education department. The respective departments shall promptly submit updated information whenever such information changes.

5. (a) The department shall specify which information for the registry shall be submitted and updated by the state-approved education or training program, home care services worker and home care services entity, subject to the provisions of this subdivision.

(b) Any entity that offers or provides a state-approved education or training program shall provide the department the following documentation for every person who successfully completes any program provided by the entity, in the form and manner provided by the department:

(i) a written sworn statement by the senior official of the entity that offers or provides such program, made under penalty of perjury,

certifying that each person has in fact successfully completed the identified program, identifying each such person by name, address, date of birth and date on which such program was completed, and describing the nature of the education or training covered in such program; and

(ii) proof that such entity has verified the true identity of each person who has successfully completed the identified program.

(c) A home care services worker employed by a home care services entity shall only be required to provide for the registry that information specified in paragraphs (a), (b), (c), (d) and (e) of subdivision three of this section, and, to the best of their knowledge and recollection, paragraph (f) of subdivision three of this section.

(d) The registry shall be updated at least monthly. Any person or entity required or choosing to provide information to the registry shall promptly submit updated information whenever such information changes.

6. No charges shall be imposed on any person or entity for any costs related to the registry.

7. (a) Members of the public may access and obtain information in the registry through the department's website, except information specified in paragraphs (b) and (d) of subdivision three of this section. The department shall also provide toll-free telephone access for members of the public to access and obtain information from the registry, except information specified in paragraphs (b) and (d) of subdivision three of this section.

(b) A home care services worker may access or obtain any information in the worker's own listing in the registry.

(c) A home care services entity may access or obtain any information in the registry relating to any home care services worker the entity engages or is considering engaging to provide home care services.

(d) The department shall include security mechanisms in the registry to implement this subdivision and to maintain a record of accessing or obtaining information from the registry by every home care services entity.

7-a. The department shall make the contact details of

department-approved education or training programs that offer competency exams to home health aides available on the department's website and readily accessible by the public.

8. The department shall provide reasonable and appropriate timetables, notices and phase-in mechanisms for applying various provisions of this section to state-approved education and training programs, home care services entities, persons becoming home care services workers and persons already engaged as home care services workers. Persons employed as home care services workers on the effective date of this section shall be registered as soon as practicable, but not later than twelve months after such effective date.

* 9. The department shall indicate within the home care services worker registry when a home health aide has satisfied all applicable training and recertification requirements and has passed the applicable competency examinations necessary to perform advanced tasks pursuant to subdivision two of section sixty-nine hundred eight of the education law and regulations issued thereto. Any limitation or revocation of the advanced home health aide's authorization also shall be indicated on the registry.

* NB Effective until March 31, 2029

* 9. The commissioner shall make rules and regulations reasonably necessary to implement the provisions of this section.

* NB Effective March 31, 2029

* 10. The commissioner shall make rules and regulations reasonably necessary to implement the provisions of this section.

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