

**R432. Health, Family Health and Preparedness, Licensing.**

**R432-725. Personal Care Agency Rule.**

**R432-725-1. Authority.**

This rule is adopted pursuant to Title 26, Chapter 21.

**R432-725-2. Purpose.**

The purpose of this rule is to promote the public health and welfare through the establishment and enforcement of licensure standards. This rule sets standards for the operation of personal care agencies.

**R432-725-3. Compliance.**

- (1) A Personal Care Agency shall not exceed personal care services as defined in R432-725-4(2)(c).
- (2) A Transportation Services Agency does not require a Personal Care Agency license.

**R432-725-4. Definitions.**

- (1) The terms used in these rules are defined in R432-1-3.
- (2) In addition:
  - (a) "Licensed health care professional" means a registered nurse, physician assistant, advanced practice registered nurse, or physician licensed by the Utah Department of Commerce who has education and experience to assess and evaluate the health care needs of the resident.
  - (b) A "Personal Care Agency" consists of two or more individuals providing personal care services on a visiting basis.
  - (c) "Personal Care Services" means any service provided to assist an individual with activities of daily living or other tasks which do not require the direct intervention or supervision of a licensed healthcare professional. These tasks may include those health care services which may be performed by an unlicensed individual without delegation by a health care provider Section 58- 1-307.1 and Subsection R156-31b-701a(1).
  - (d) "Service Agreement" means a written agreement for services between the client and the personal care provider that outlines how the services are to be provided.
  - (e) "Transportation Services Agency" means an agency that provides transportation and does not provide any Personal Care Services.

**R432-725-5. Administrator.**

- (1) The licensee shall appoint by name and in writing a qualified administrator who is responsible for the agency's overall functions.
- (2) The administrator shall be at least 21 years of age and have at least one year of managerial or supervisory experience.
- (3) The administrator shall designate in writing a qualified person who is at least 21 years of age and who shall act in his absence. The designee shall have sufficient power, authority, and freedom to act in the best interests of the client safety and well being.
- (4) The administrator or designee shall be available during the agency's hours of operation.

**R432-725-6. Personnel.**

- (1) The agency shall maintain documentation for each employee required to be licensed or certified.
- (2) Copies shall be maintained for Department review that staff have a current license, certificate, or registration. New employees shall have 45 days to present the original document.
- (3) The agency shall ensure each employee maintains a minimum of six hours of in-service per calendar year, prorated for the first year of employment.
- (4) An annual in-service shall be documented that staff have been trained in the reporting requirements for suspected abuse, neglect and exploitation.

**R432-725-7. Health Surveillance.**

- (1) The agency shall establish and implement a policy and procedure for health screening of all agency health care workers (persons with direct client contact) to identify any situation which would prevent the employee from performing assigned duties in a satisfactory manner.
- (2) Employee health screening and immunization components of personnel health programs shall be developed in accordance with R386-702, Communicable Disease Rules.
- (3) Employee skin testing by the Mantoux method or other FDA approved in-vitro serologic test and follow up for tuberculosis shall be done in accordance with R388-804, Special Measures for the Control of Tuberculosis.
  - (a) The licensee shall ensure that all employees are skin-tested for tuberculosis within two weeks of:
    - (i) initial hiring;
    - (ii) suspected exposure to a person with active tuberculosis; and
    - (iii) development of symptoms of tuberculosis.
  - (b) Skin testing shall be exempted for all employees with known positive reaction to skin tests.
- (4) All infections and communicable diseases reportable by law shall be reported by the facility to the local health department in accordance with R386-702-2.

**R432-725-8. Orientation.**

- (1) There shall be documentation that all employees are oriented to the agency and the job for which they are hired.
- (2) Orientation shall include but is not limited to:
  - (a) Job descriptions/duties;
  - (b) Ethics, confidentiality, and clients' rights;
  - (c) Reporting requirements for suspected abuse, neglect or exploitation.

**R432-725-9. Admission and Retention.**

- (1) The agency may accept and retain clients for service if the client's needs do not exceed the level of personal care services as determined and documented by a licensed health care professional.
- (2) If the client's needs exceed the personal care services, the agency shall make a referral to a licensed health care professional or an appropriate alternative service.

**R432-725-10. Service Agreement.**

- (1) The agency shall obtain a signed and dated service agreement from the client and/or his responsible party. The service agreement shall include the following:
  - (a) A description of services to be performed by the Personal Care Aide;
  - (b) Charges for the services;
  - (c) A statement that a 30-day notice shall be given prior to a change in base charges.

**R432-725-11. Termination of Services Policies.**

- (1) The agency may discharge a client under any of the following circumstances:
  - (a) Payment for services cannot be met;
  - (b) The safety of the client or provider cannot be assured;
  - (c) The needs of the client exceed the level of care provided by the agency;
  - (d) The client requests termination of services; or
  - (e) The agency discontinues services.

**R432-725-12. Clients' Rights.**

- (1) Written clients' rights shall be established and made available to the client, guardian, next of kin, sponsoring agency, representative payee, and the public.
- (2) Agency policy may determine how clients' rights information is distributed.
- (3) The agency shall insure that each client receiving services has the following rights:
  - (a) To be fully informed of these rights and all rules governing client conduct, as evidenced by documentation in the clinical record;
  - (b) To be fully informed of services and related charges for which the client or a private insurer may be responsible, and to be informed of all changes in charges;
  - (c) To be free of mental abuse, physical abuse and/or exploitation;
  - (d) To be afforded the opportunity to participate in the planning of personal care services, including referral to health care institutions or other agencies, and to refuse to participate in experimental research;
  - (e) To be assured confidential treatment of personal records, and to approve or refuse their release to any individual outside the agency, except in the case of transfer to another agency or health facility, or as required by law or third-party payment contract;
  - (f) To be treated with consideration, respect, and full recognition of dignity and individuality, including privacy in treatment and in care for personal needs;
  - (g) To be assured that personnel who provide care demonstrate competency through education and experience to carry out the services for which they are responsible;
  - (h) To receive proper identification from the individual providing personal care services;
  - (i) To receive information concerning the procedures to follow to voice complaints about services being performed.

**R432-725-13. Personal Care Agency Records.**

- (1) The Personal Care Agency shall maintain accurate and complete records. Records shall be filed, stored safely, and be easily accessible to staff and the Department.
- (2) Records shall be protected against access by unauthorized individuals.
- (3) The Personal Care Agency shall maintain a separate record for each Client which shall be retained by the agency for three years following the last date of service.
- (4) The Client record shall contain the following:
  - (a) Client's name, date of birth and address;
  - (b) Client service agreement;
  - (c) Name, address, and telephone number of the individual to be notified in case of accident, emergency or death;
  - (d) Documentation of date and reason for the termination of services.
- (5) The Personal Care Agency shall maintain personnel records for each employee and shall retain such records for at least three years following termination of employment. Personnel records must include the following:

- (a) employee application;
- (b) date of employment;
- (c) termination date;
- (d) reason for leaving;
- (e) documentation of first aid training;
- (f) health inventory;
- (g) TB skin test documentation; and
- (h) documentation of criminal background screening authorization.

**R432-725-14. Personal Care Aides.**

- (1) Personal care aides shall be at least 18 years of age and must:
  - (a) Have knowledge of agency policy and procedures;
  - (b) Be trained in first aid;
  - (c) Be able to demonstrate competency in all areas of training for personal care.
- (2) Personal Care Aides shall be supervised by an individual with the following qualifications:
  - (a) A licensed nurse; or
  - (b) A Certified Nursing Aide with at least two years experience in personal or home care.
- (3) The supervisor shall complete an on-site evaluation of the personal care aide and document the quality of the personal care services provided in the client's place of residence every six months.
- (4) Personal Care Aides shall document observations and services in the individual client record.

**R432-725-15. Penalties.**

Any person who violates any provision of this rule may be subject to the penalties enumerated in 26-21-11 and R432-3-6 and be punished for violation of a class A misdemeanor as provided in 26-21-16.

**KEY: health care facilities**

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