



# DEFINING “SKILLED CARE” FOR WISCONSIN HOME HEALTH AGENCY (HHA) LICENSURE

Wisconsin Department of Health Services / Division of Quality Assurance

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This information is applicable whether the Wisconsin HHA is a public, nonprofit, or proprietary HHA, or a subdivision of a healthcare organization (e.g., department of a hospital).

The overriding goal of all skilled care is to provide treatment and to develop functional independence within the patient and within the caregiver unit in managing the patient’s disease processes and in caring for the patient’s medical needs. It is never to foster patient and/or caregiver dependence upon the HHA.

## Wisconsin Regulatory Law

In Wisconsin, Wis. Admin. Code ch. DHS 133 establishes “minimum standards for the operation of HHAs which primarily provide in-home, part-time, or intermittent nursing care, and other therapeutic services”. Wis. Admin. Code § DHS 133.02(3) further defines a “home health agency” as “an organization that primarily provides both skilled nursing and other [skilled] therapeutic services to patients in their homes”. Wis. Admin. Code § DHS 133.02(13) further defines “therapeutic service” as physical, occupational, speech, or other therapy.

At Wis. Admin. Code § DHS 133.03(4)(b)(3), language notes that, in order to obtain a regular HHA license in Wisconsin, a HHA with a Division of Quality Assurance (DQA)-approved application and holding a provisional license must first “serve at least 10 patients requiring skilled nursing care or other (skilled) therapeutic services in Wisconsin” prior to submitting a written request to DQA for an on-site licensure survey.

## Skilled Nursing Defined

Board of Nursing Wis. Admin. Code DHS § 441.001(4) defines nursing as “any act in the observation or care of the ill, injured, or infirm that requires substantial nursing skill, knowledge, or training, or application of nursing principles and includes, the observation and recording of symptoms and reactions, and the execution of procedures and techniques in the treatment of the sick under direction of a physician”.

Wis. Admin. Code § DHS N 6.03, *Standards of Practice for Registered Nurses (RNs) and Licensed Practical Nurses (LPNs)*, defines the standard of practice for RNs as including:

1. Utilization of the nursing process: assessment, planning (includes prioritization of needs and setting goals derived from assessment), interventions, and evaluation
2. Performance of delegated medical acts
3. Supervision and direction of delegated nursing acts to lesser skilled assistants

The American Nurses Association’s *Scope and Standards of Home Health Nursing Practice, 2008*, also identifies the above standards in the nursing process, and includes coordination of care, health teaching and health promotion, and consultation as encompassing the critical thinking and skills instrumental to the practice of skilled nursing care by a RN.

Wis. Admin. Code § DHS 133.14(1), (2), and (5) identify the skilled nursing care provided by a RN as including:

1. Make the initial evaluation visit to the patient.
2. Regularly re-evaluate the patient’s needs.
3. Initiate the plan of care and necessary revisions.
4. Provide those services requiring substantial specialized care.

5. Initiate appropriate preventive and rehabilitative procedures.
6. Prepare clinical and progress notes.
7. Promptly inform the physician and other personnel participating in the patient's care of changes in the patient's condition and needs.
8. Arrange for counseling the patient and family in meeting related needs.
9. Supervise and teach other personnel.
10. Maintain overall responsibility for coordinating services provided to the patient by the agency.

### Skilled Therapy Defined

Wis. Admin. Code § DHS 133.15 identifies skilled therapy services provided by a physical therapist (PT), occupational therapist (OT), or speech therapist (ST), under a total plan of care established by a physician, as including at minimum:

1. Make the initial evaluation visit to the patient.
2. Initiate the plan of care and necessary revisions.
3. Prepare clinical and progress notes.
4. Arrange for counseling of the patient and/or family in meeting related needs.

*\* Though Wis. Admin. Code ch. DHS 133 allows Medical Social Service to be an approved therapeutic service, a medical social worker alone cannot establish skilled services because a medical social worker is not sufficiently trained or qualified to conduct physical assessments of patients, whereby PTs, OTs, and STs are trained and qualified to do so.*

### Summary

A "skilled patient" is one whose overall medical condition and treatment requires the knowledge, training, specialized skills, and judgment of a nurse or therapist in order to provide and coordinate *safe* patient care that could not be achieved or addressed safely and effectively through the use of non-skilled personnel alone, and that must be reasonable and necessary to the diagnosis and treatment of the patient's overall medical condition, illness, injury, or to the restoration of function affected by an illness or injury, utilizing accepted standards of practice.

Care does not become skilled simply because a nurse or therapist provides it. Any service that can be done safely by a non-professional without the supervision of a nurse or therapist is not skilled care.

The need for skilled care is not simply based upon diagnosis, but rather the patient's overall medical condition, care needs, and potential for negative outcome. In some cases, the condition of the patient may cause an ordinarily unskilled service to be considered skilled when the patient's condition is such that the service can only be provided safely and effectively by a professional nurse or therapist.

Skilled care can include:

1. Application of direct care or treatment to the patient that requires substantial and/or specialized knowledge and skill. For example:
  - Wound care to open, infected, or complex wounds
  - Intravenous medications or infusions
  - New tube feedings or new ostomy care
  - Urinary catheterization

- Tracheostomy suctioning
2. Teaching the patient and/or caregiver to manage the patient’s disease processes or treatment regimen, including response to teaching where the skills or knowledge of a professional are required to teach and reassess understanding and compliance. This includes preventive and rehabilitative interventions, until the patient and/or caregiver can demonstrate independence or until it becomes apparent teaching is unsuccessful. Teaching can include reinforcement of inpatient training and re-teaching where there is a change in procedure or where the patient and/or caregiver is not correctly performing the task or care. For example, teaching of:
    - A new diabetic or one who needs re-training
    - Pain management or other new medication regimen where there is significant probability of adverse drug reaction
    - Preservation of skin integrity and prevention of skin breakdown
    - Wound care (more than simple sound care)
    - Urinary self-catheterization technique and equipment care
    - Activities of Daily Living (ADLs) where special techniques or new adaptive equipment is required
    - Safe use of assistive devices, transferring techniques, or gait training
  3. Observation and assessment of the patient’s condition and clinical response to care, where only the specialized skills of a medical professional can determine patient status, *and* where there exists a reasonable potential for clinical deterioration or complication and a need to modify the plan of care until the treatment regimen becomes stable. For example:
    - Patient with a fractured leg and new cast who has moderate to severe peripheral vascular disease and needs to learn pain management and preventive skin care to maintain skin integrity
    - Frail, elderly patient with pneumonia discharged home from inpatient status with poor oral intake, having just switched from IV to oral antibiotics
    - Patient with abnormal or fluctuating vital signs, weight, edema, or lab values with reasonable potential for complication or treatment change
    - “Medication management” for a patient with a *complex medical condition* where, due to the nature of the drugs prescribed *and* because the patient is physically and/or cognitively unable to correctly follow the medication program, there exists a clinical need for drug monitoring (effectiveness/reactions), *and* for physician consultation regarding medication changes based upon clinical responses to the medication(s)

### Third-party Payer Requirements vs. Regulatory or Licensure Requirements

Third-party payers include Medicare, Medicaid, HMOs, PPOs, other insurance, other state or federal programs, etc. Third-party payers have a contract with the patient to pay for the patient’s home health care. Each “payer” has different requirements; some may mirror the Wisconsin state licensure requirements and others may be different. For example, Medicare requires a patient to be homebound before qualifying for HHA care under Medicare payment. “Homebound” is not a regulatory or licensure requirement; it is a *payer requirement*, which is a condition that must be met in order for the HHA that is caring for the patient to receive payment from the payer for services rendered.

### Resources

1. Wis. Admin. Code, chs. DHS 133, 101, 105, 107, and N 6

2. Wis. Stat. ch. 441, Board of Nursing
3. *The American Nurses Association’s Scope and Standards of Home Health Nursing Practice, 2008*
4. Social Security Act §§ 1814(a)(2)(C); 1861(m), and(o); and 1891
5. Wisconsin Medicaid Publications:  
<https://www.dhs.wisconsin.gov/medicaid/publications.htm#BrochuresandHandbooks>
6. Centers for Medicare & Medicaid Services – Home Health Providers webpage:  
<https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/CertificationandCompliance/HHAs.html>
7. Medicare Home Health Care Booklet: <https://www.medicare.gov/Pubs/pdf/10969.pdf>
8. Medicare Benefit Manual – Chapter 7: <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Internet-Only-Manuals-Ioms-Items/Cms012673.html>