

**County of Erie Local Laws of 1998**

Local Law No.	Year	Title/Subject A local law . . .
2	1998	. . . in relation to regulation of home health care services provided to County residents pursuant to contracts awarded by the County of Erie.

Section 1. **Scope.** This local law imposes staffing, training and experience requirements on providers of home health care services who seek to contract with the county of Erie. It provides for procedures by which the county of Erie shall monitor its contracts, and further provides the wherewithal to accomplish such monitoring. No person shall be eligible to contract with the county of Erie for the provision of home health care services unless such person demonstrates that it meets the minimum criteria established pursuant to this local law.

It is the intent of the legislature to act, consistent with state law, to require the highest standards of care to be provided by county contractors. Nothing contained in this local law shall be construed to regulate private, non-contractual or non Erie county government funded services.

Section 2. **Definitions.** Unless otherwise provided in this local law, the following terms shall have the meanings provided in this section:

a. "Home health care agency" shall mean a corporation, partnership, sole proprietorship, not-for-profit corporation, voluntary association, or any person or group of persons which engages in providing, directly to individuals, in a place of residence used as an individual's home, one or more of the following services:

- (i) personnel who provide professional nursing;
- (ii) home health aide services;
- (iii) personal care services;
- (iv) homemaker services;
- (v) physical, occupational or speech therapy;
- (vi) nutritional services; or
- (vii) medical social services;

and which is qualified to operate in New York state by the New York state department of health;

b. "Certified home health care agency" shall mean: (i) a home health care agency which possesses a valid certificate of approval issued

pursuant to the provisions of article thirty-six of the New York state public health law; or (ii) a residential health facility possessing a valid operating certificate issued under article twenty-eight of the New York state public health law and is authorized under article thirty-six of the New York state public health law to provide a long term home health care program. Such agency or facility must be qualified to participate as a home health agency under the provisions of title XVIII of the federal social security act;

- c. "Home health aide services", "personal care services", "homemaker services", and "housekeeper/chore services" shall all be defined pursuant to state law and the rules, regulations and administrative directives issued by the New York state department of social services and the New York state department of health;
- d. "Home health care services" shall mean services provided by a certified home health agency or a home care service agency to individuals or families at their place of residence. Home care services may include: professional nursing; home health aide; personal care; homemaker; housekeeper/chore; physical, occupational or speech therapy; nutritional; or medical social services;
- e. "Department" shall mean the Erie county department of social services;
- f. "Commissioner" shall mean the commissioner of the Erie county department of social services;
- g. "CASA" shall mean the community alternative services agency;
- h. "Home health review unit" shall mean the unit within the Erie county department of social services which is charged with the responsibility of implementing and enforcing the mandates of this local law and any rules, regulations and administrative directives governing the services to be rendered.

Section 3. **Minimum standards for operation of a home health care agency.** No home health care agency shall be eligible to contract with the county of Erie unless it holds a current license pursuant to regulations for licensed home care services agencies adopted by the New York state health council and meets the minimum standards established herein. No certified home health agency shall contract with the county of Erie unless it meets the additional standards established in this local law.

- a. **Administration.**

1. **Administrator/executive director.** A home health care agency shall have in its employ a paid, full-time administrator/executive director who has overall control and supervision of the provider agency within Erie county. The administrator/executive director shall:
  - (i) possess at least a bachelor's degree in business administration, health, social services or a related field and have a minimum of two years' work experience in a managerial or supervisory capacity in one of the above fields; or
  - (ii) have a minimum of six years' combined education and work experience of which the educational component must include at least one of the following: (a) an associate's degree in nursing; (b) licensure by the state of New York as a registered professional nurse; or at least an associate's degree in business administration, health, social services or a related field. Work experience must consist of managerial or supervisory duties in at least one of the above listed fields.
  
2. **Director of nursing.** A home health care agency shall have in its employ a full-time director of nursing who possesses a current New York state registered nurse's license. The director of nursing must possess at least one of the following combinations of education and experience:
  - (i) a bachelor of science degree in nursing and two years' experience as a supervisor in the health care field; or
  - (ii) a bachelor's degree in a health related field and four years' work experience in the health care field of which at least two years must be in community health and at least one year must be in a managerial or supervisory capacity; or
  - (iii) an associate's degree in nursing, or a three year diploma in nursing; and at least four years' work experience in a health care field of which two years must be in community health and two years must be in a managerial or supervisory capacity.
  
3. **Nursing supervisor.** A home health care agency shall have in its employ a sufficient number of nursing supervisors to ensure the quality of patient care services provided by the home health care agency and to ensure adequate supervision of agency staff delivering services in patient homes. The nursing supervisor shall possess a current New York state registered nurse's license and

have at least two years' prior experience in the health care field including one year's experience in a supervisory capacity.

The primary functions of the nursing supervisor shall include, but not be limited to, supervision and evaluation of field personnel, monitoring services provided to ensure high-quality service delivery, providing on-the-job training, and advising the county of Erie of suggestions for change in existing care plans.

**4. Personnel screening.**

a. Each home health care agency and certified home health care agency under contract with the county of Erie to provide home health care services shall be responsible for: recruitment of appropriate personnel; verification of credentials and references; screening of all prospective personnel; and selection and hiring of personnel necessary to furnish home health care services. The screening program shall include, but not be limited to, the following requirements:

- (i) each applicant for employment in the home health care agency shall be interviewed by a person at the supervisory/managerial level in the employing agency to assess the applicant's background, maturity, emotional and mental stability, attitude and ability to apply learning skills;
- (ii) the employing agency shall require the applicant to produce identification and shall be responsible for verifying such identification;
- (iii) the employing agency shall require all applicants for employment to submit references from the applicant's two most recent employers or, if fewer than two employers, a combination of employer or character references from a former or current teacher, clergy member or health, social services or similar professional;
- (iv) the employing agency shall conduct reference checks on all applicants, including written or oral contact with references provided by the applicant, and written or oral contact with any former or current home health care agency employers who may be disclosed through a central home health care employment register.

b. The employing agency shall conduct a review of the home health care employment history of all current personnel and prospective personnel;

- (i) Each home health care agency and certified home health care agency which contracts with the county of Erie is required to participate in, and to have the home health care employment history of all current and prospective employees checked through a central, county-wide home health-care employment data registry;
  - (ii) Prior to employment, and as a condition of employment, the contracting agency shall obtain written consent from all current and prospective home health care personnel for a home health employment history to be obtained from a centralized, county-wide home health care employment data registry. Refusal of such consent shall be grounds for dismissal or refusal to hire;
  - (iii) each agency shall contact, in writing or verbally, each past or current employer of the applicant for employment as disclosed by the home health employment history report;
  - (iv) each agency shall review continuing the employment of any current employee, or the hiring of any new employee, who fails to disclose past or current employment with another home health care agency.
- c. The employing agency shall conduct a review of the criminal records and pending criminal actions against all current personnel or prospective personnel.
- (i) Each home health care agency and certified home health care agency contracting with the county of Erie is required to have the records of all current and prospective employees checked for criminal histories by the Erie county department of central police services.
  - (ii) Prior to employment, and as a condition of continued employment, the contracting agency shall obtain written consent from all current and prospective personnel for release of a criminal record history by the Erie county department of central police services. Denial of such request shall be grounds for dismissal or refusal to hire.
  - (iii) Each agency, shall, in accordance with the standards established by article twenty-three-A of the New York state corrections law, review continuing the employment of any present employee, or hiring of any

prospective employee, discovered to be convicted of one or more criminal offenses.

- d. Any failure to comply with the provisions of paragraphs b and c of this subdivision shall be a material breach of the contract sufficient to cause termination under section seven of this local law.
5. **Photo identification cards.** A home health care agency and a certified home health care agency shall issue a photo identification card to each of its employees. The card shall show the name and current position or title of the individual and the name of the agency with which the individual is employed. The card shall be the property of the employing agency and the employee shall sign a statement that the card will be returned upon termination of employment.
6. **Employee health screening.** A home health care agency and a certified home health care agency shall be responsible for complying with the minimum criteria governing physical examination, immunization and testing for employees and applicants for employment as established by rules and regulations of the New York state department of health and the Erie county department of health. A home health care agency shall have a system for assuring the provision of physical examinations including immunization and other required testing and also for documenting the results of said examination and testing.
7. **Administrative supervision of agency personnel.** A home health care agency and a certified home health care agency shall have a program for providing administrative supervision to all agency personnel who are assigned to provide services to clients pursuant to a county home health care contract, in conformance with rules, regulations and administrative directives established by the county of Erie or the state of New York.
8. **Clinical supervision of agency personnel.** Any agency contracting with the county of Erie to provide nursing supervision together with CASA, as the unit of Erie county government designated for this purpose, shall provide clinical nursing supervision to home health care agency aides who are assigned to provide services to clients pursuant to an Erie county home health care contract in conformance with rules, regulations and administrative directives as established by the county of Erie or the state of New York.

9. **Personnel records.** A home health care agency and a certified home health care agency shall maintain personnel records for all agency personnel who are assigned to provide services to clients pursuant to a county home health care contract, in conformance with rules, regulations and administrative directives as established by the county of Erie or the state of New York. At a minimum, such records shall include:

- (i) a completed employment application and other satisfactory proof of the date on which the person was hired, and written documentation of the employee interview;
- (ii) written documentation of the employee's references and the criminal record check and home health care employment history check which are conducted on each employee;
- (iii) documentation that the employee meets orientation, basic training, in-service and on-the-job training requirements as established by the county of Erie and the state of New York;
- (iv) where applicable, satisfactory proof that the employee meets competency testing requirements as established by the county of Erie and the state of New York;
- (v) copies of any complaints which have been filed against the employee, and written information showing how such complaints were resolved; and
- (vi) copies of all performance evaluations of the employee.

10. **Employee manual.** A home health care agency and a certified home health care agency shall develop a written employee manual which shall include provisions clearly explaining the agency's personnel policies and existing policies, procedures or requirements with respect to at least the following:

- (i) orientation, basic, in-service and on-the-job training;
- (ii) description and responsibilities of all positions utilized by the agency;
- (iii) initial and periodic physical examinations and other employee health testing requirements;
- (iv) supervision and job performance evaluations;
- (v) services provided;
- (vi) client care, treatment and record keeping;
- (vii) client safety and emergency care, including information on after-hours emergency care;
- (viii) administrative record keeping;
- (ix) client rights;

- (x) tardiness, hiring, firing, disciplinary action, employee accidents and injury, employee benefits, and employee counseling procedures;
- (xi) dress code;
- (xii) criminal records review procedure;
- (xiii) home health care employment history review procedure;
- (xiv) photo identification requirements;
- (xv) penalties as they relate to theft, patient abuse and neglect, substance abuse and fraudulent time reporting by any agency employee;
- (xvi) assignments and scheduling;
- (xvii) transportation requirements;
- (xviii) any other information as required by the county of Erie or the state of New York.

The manual shall be reviewed at least annually, and any revision thereto shall be distributed to all agency employees. The agency shall distribute the employee manual to a new employee upon employment with the agency. The home health care agency shall be responsible for submitting a copy of its manual and any revisions thereof to the county of Erie.

11. **Insurance coverage.** A home health care agency and a certified home health care agency shall procure blanket bond insurance, third party fiduciary insurance, general and automobile liability insurance, medical malpractice insurance and workers' compensation insurance in such form and amount as may be prescribed by the county of Erie. Such insurance shall include the county of Erie as an additional named insured, and the agency shall provide the county with certificates of insurance prior to entering into any contract with the county of Erie.

12. **Records and reports.**

a. A home health care agency shall ensure that copies of all records and reports as required by the state of New York and the county of Erie are retained on file at the agency's principal administrative office in Erie county, or at each branch office of the agency in Erie county.

b. **Staff development.**

1. **Development of training plans.** A home health care agency's training plans, including its plans for employee orientation, basic training, in-service training, on- the-job training and evaluation of job performance, shall be



developed in accordance with such training and employee evaluation standards as established by the county of Erie and the state of New York.

2. **Approval of training plans required.** A home health care agency's training plans, including its plans for orientation, basic training, competency testing, in-service training, on-the-job training, and evaluation of overall job performance, shall have been approved by the state of New York. A home health care agency shall ensure that all personnel who are assigned to provide services pursuant to an Erie county home health care contract have successfully completed training or competency testing in conformance with a New York state approved training plan.
3. **Orientation.** A home health care agency shall directly provide at least a three hour orientation session to each home health aide, personal care aide, homemaker, or housekeeper/chore aide prior to the start of an individual's employment, and shall, at the minimum, introduce new employees to their responsibilities and to the structure, organization, overall programs, policies and procedures of the home health care agency. The orientation session shall be held in addition to prescribed basic training and shall also serve as a forum for reviewing the employee orientation manual with new employees.
4. **In-service training.**
  - (a) In addition to complying with any in-service training requirements for home health aides and homemaker service aides, as required by New York state, any provider of home health care service for the county of Erie shall require its housekeeper/chore aides to complete a minimum of three hours in-service training every six months.
  - (b) In-service training may be furnished directly by the employing home health care agency, another home health care agency, a certified home health care agency, or an independent third party institution whose in-service training programs are consistent with course content required by the appropriate departments of New York state and Erie county.
  - (c) In-service training shall be provided to develop skills or knowledge not included in basic training or to review or expand skills or knowledge included in

basic training. Content of the in-service training shall be relevant to the job of the employee delivering home health aide, personal care, homemaker or housekeeper/chore services.

**5. On-the-job training.**

- a. A home health care agency shall require all employees who provide home health aide, personal care, homemaker or housekeeper/chore services to complete a minimum of two on-the-job training sessions on an annual basis.
- b. On-the-job training shall be furnished directly by the employing home health care agency and shall be provided to an employee in a client's home by a licensed registered nurse. On-the-job training shall be used to instruct the employee in a specific skill or technique, or to assist the employee in resolving problems in individual care situations. Notations as to an aide's performance during on-the-job training shall be documented in the aide's personnel file.

**6. Evaluation of overall performance.**

- a. A home health care agency shall be directly responsible for completing an overall job performance evaluation for each employee providing home health aide, personal care, homemaker or housekeeper/chore services. An evaluation of each employee's overall job performance shall be completed at least every six months.
- b. Employee evaluations shall be completed by a registered professional nurse employed by a home health care agency to provide nursing or administrative supervision. Such evaluation shall be based upon a minimum of:
  - (i) on site visitation;
  - (ii) a private interview with the client or client representative;
  - (iii) a private interview with the aide;
  - (iv) certification that on-the-job training was completed;
  - (v) verification of aide's current compliance with all training and health status requirements; and
  - (vi) review of aide activity logs, when available, and review of aide personnel file.

## 7. Documentation of training.

- a. A home health care agency shall issue a dated certificate to each employee who has successfully and fully completed a basic training program and shall maintain the basic training certificate in the employee's personnel record. The basic training certificate issued by a home health care agency shall conform to the uniform basic training certificate regulations pertaining to content and format as established by the county of Erie or appropriate department of the state of New York.
- b. A home health care agency shall maintain documentation to support participation of an employee in the required orientation session, in-service training and on-the-job training in each employee's personnel record. Documentation may be a card, letter, or notation on a training record, detailing the orientation, in-service and on-the-job training history.
- c. A home health care agency shall maintain attendance records as back-up support for the documentation of an employee's orientation.
- d. A home health care agency providing in-service training directly or by arrangement with another home health care agency, a certified home health care agency or an approved independent, third-party institution, shall establish policies and procedures to ensure that attendance records are maintained as back-up support for the documentation of an employee's in-service training.
- e. A home health care agency providing basic training directly or by arrangement with an approved independent, third party institution, shall establish policies and procedures to maintain records of an employee's attendance at all scheduled and make-up basic training classes. Attendance records shall be used as back-up support for the documentation of an employee's basic training. An employee's numerical grades and descriptive ratings on:
  - (i) written examinations and quizzes;
  - (ii) oral quizzes;
  - (iii) practical demonstrations of skills;
  - (iv) instructor observations of overall performance, attitude and work habits;

- (v) preparation of assignments of home study materials and on other basic training testing instrument shall also be documented and maintained.
- f. A home health care agency shall make all orientation, in-service and basic training records and all scored and basic training testing instruments available to the county of Erie for monitoring and audit purposes.

**8. Documentation of competency testing.**

- a. A home health care agency shall document an employee's related experience or training, competency testing results and participation in necessary remedial or additional basic training in accordance with the uniform competency testing standards as established by the state of New York.
- b. A home health care agency shall issue a dated competency testing certificate to each employee who has successfully completed competency testing and shall maintain the competency testing certificate in the employee's personnel record. The competency testing certificate issued by the home health care agency shall conform to the uniform testing certificate regulations pertaining to content, size and format as established by the county of Erie or the State of New York. The competency testing certificate issued by a home health care agency shall indicate whether an employee is totally or partially exempt from basic training. When a home health care agency issues a competency testing certificate which indicates an employee's partial exemption from basic training, the certificate shall state which basic training program components have been examined.
- c. The basic training certificate issued by a home health care agency to an employee whose competency testing results have partially exempted the employee from basic training shall state which topics of basic training have been successfully completed by the employee. This type of basic training certificate shall be maintained by the home health care agency in the employee's personnel record.
- d. A home health care agency shall make all competency testing related records, including documentation of the required experience or training, and all scored and

dated competency testing instruments available to the county of Erie for monitoring and audit purposes.

9. **Other requirements.** A home health care agency which provides home care services through a contractual purchase of services shall insure that those services are provided by qualified personnel who meet the applicable orientation, basic training, in-service training and on-the-job training criteria established by the appropriate department of New York state or the county of Erie.

a. **Provision of services.**

1. **Services provided.** A home health care agency and a certified home health care agency shall provide all services required to complete its obligations under any and all contracts entered into with the county of Erie.

2. **Service requirements.** A home health care agency and a certified home health care agency shall:

- (i) be able to provide services twenty-four hours per day, seven days per week, including holidays;
- (ii) have a written plan which insures essential service and back-up when the usual worker is not available;
- (iii) have current written procedures and a plan to be followed by workers and other staff in case of an emergency to assure the health care needs of patients continue to be met in emergencies which interfere with the delivery of service. The home health care agency shall orient employees to the emergency plan and their responsibilities in carrying out such plan. Said emergency plan shall be developed in conformance with any administrative directives, rules and regulations as established by New York state or the county of Erie.

3. **Medical orders.** A home health care agency and a certified home health care agency and CASA, to the extent appropriate, shall comply with any requirements pertaining to medical orders as

established by New York state and the county of Erie.

**4. Care plans.**

- a. A home health care agency, a certified home health care agency, appropriate county departments or their contract agencies, and CASA, to the extent appropriate, shall be responsible for complying with the minimum criteria with respect to client assessment reviews, client care plans, and discharges which are established by the rules, regulations and directives of the New York state department of health or the New York state department of social services.
- b. A certified home health care agency and CASA, to the extent appropriate, shall have a licensed registered nurse who is an employee of the agency prepare a written assessment for each client of said agency who receives in-home professional nursing services, home health aide services, personal care services, homemaker services, housekeeper/chore services, therapy services, nutritional services and medical social therapy.

Said assessment shall, at minimum, include a review of the medical orders, if applicable, an evaluation of the specific needs of the client, development of a plan of care and recommendations for the summary of service requirements. The client care plan prepared by such agency shall, at minimum, include an outline of the service needs of the client, including the type of services needed, frequency and duration of services, and a regimen that will be followed in supervising the care provided to the client.

- c. Any client care plan which is developed by a certified home health care agency or CASA shall serve as the working document for delivering services, and shall be posted by the provider in a conspicuous place in the client's home upon the initiation of services. The

certified home health care agency or CASA shall update the client's care plan as often as the client's condition indicates, but at such regular frequency as required by New York state or the county of Erie. A certified home health care agency or CASA shall maintain such care plan as a permanent part of the client record and shall forward same to the home health care agency assigned to the case.

- d. A certified home health care agency or home health care agency shall report to the appropriate county contract agency case manager any change in the client's condition or family situation which might affect the client's approved plan of care.

**5. Client records.**

- a. A home health care agency shall establish and maintain a confidential record for each client it serves. In addition to any information which may be required by the state of New York for inclusion in a client's records, the record shall contain: appropriate identifying information concerning the client; documentation of the client's receipt of the client home care manual, including a comprehensive bill of rights; conditions or reasons for which care is offered; written evidence of any complaints or grievances which a client filed with the home health care agency; and other information as required by the county of Erie.
- b. A home health care agency, a certified home health care agency, and CASA, to the extent appropriate, shall be responsible for complying with the minimum criteria with respect to the establishment and maintenance of client records which are established by the rules, regulations and administrative directives of the New York state department of health, the New York state department of social services, or the county of Erie.
- c. Each client's record shall be kept on file in the home health care agency office, certified home health care agency office, or CASA

office for at least six years from the date of discharge from the home health care agency or for such longer period as may be required by state regulation.

**Section 4. Contract requirements and procedures.**

- a. The county of Erie shall contract only with home health care agencies which are qualified to operate in New York state by the New York state department of health. Agencies which failed to file a license application with the New York state department of health by the first day of October nineteen hundred eighty-five, are barred from contracting with the county of Erie until such time as a license is granted.
- b. The county of Erie shall contract only with those home health care agencies which have provided home health care services over at least a two-year period on a private or other pay basis within the geographic boundaries of Erie county, New York;
- c. Before contracting with any home health care agency for home health care related services, the home health review unit of the county of Erie shall:
  - (i) establish and complete a checklist to assure itself that the home health care agency has met each of the requirements in section three of this local law;
  - (ii) conduct an on-site visit to the office facilities of the prospective contracting home health care agency and observe the procedures used by the agency for implementation of the administrative, training and service requirements of section three of this local law;
  - (iii) furnish the home health care agency with a complete set of all pertinent rules, regulations and administrative directives governing the services to be rendered;
  - (iv) furnish the home health care agency with the name and telephone number of a contact person and back-up who will be available to answer home health care questions on a regular basis.
- d. Nothing in this local law shall be construed to require the discharge or reassignment of the administrator/executive director or the director of nursing of a home health care agency for failure to meet the education requirements set out in section three of this local law where the home health agency was under contract with the county of Erie on the third day of September nineteen hundred eighty-six, and such



administrator/executive director or director of nursing was regularly employed by such home health care agency in that same position on and before the third day of September nineteen hundred eighty-six.

Section 5. **Contract administration.** During the term of any contract entered into between the county of Erie and a home health care agency or a certified home health care agency, to furnish home health care related services, the home health review unit of the county of Erie shall:

- a. establish and carry out a monitoring system to assure continuing compliance with all federal, state and county laws, rules, regulations and administrative directives as they are issued;
- b. furnish to contractors, on a continuous and regular basis, all amendments to federal, state and county rules, regulations, and administrative directives as they are issued;
- c. at least once annually conduct an on-site visit to the office facilities of each contractor to monitor and audit the procedures used by the agency to assure compliance as set forth in subdivision a of this section.

Section 6 **Role of CASA.** The community alternative services agency shall:

- a. provide assessment, care plan development, and case management to persons of all ages who need services;
- b. when appropriate, furnish nursing supervision, directly or by contract, both in the area of orientation and in ongoing supervision as required by all federal, state and county laws, rules, regulations and administrative directives;
- c. forward a client's care plan worksheet to the client and to the appropriate nursing personnel of the home health care agency prior to or upon the initiation of home health care services;
- d. advise eligible recipients of the medical assistance program of their right to choose the provider agency of their choice;
- e. to the extent that eligible recipients of the medical assistance program do not elect to choose any specific provider agency, assign cases on a fair and equitable basis to all provider agencies then under contract by using a round-robin system for new case referrals.

Section 7. **Penalties.** In the event of a finding of non-compliance with this local law, the commissioner shall have the right to:

- a. order immediate compliance;
- b. suspend client referrals;
- c. commence formal proceedings to terminate services;
- d. take such other immediate or temporary action as under the circumstances seems appropriate for maintenance of client service.

Section 8. **Coordination.** The commissioner shall be responsible for the implementation of this local law and any regulations promulgated under it. All departments and administrative units of the county shall coordinate the administration of this local law so as to reduce to the greatest extent possible any duplication of administrative activities and expense.

Section 9. **Additional functions of the home health review unit.** In addition to the requirements imposed upon it in sections four and five of this local law, the home health review unit of the county of Erie shall:

- a. cooperate with CASA as it relates to the requirements of section six of this local law;
- b. report to the commissioner its findings with respect to any evaluation or investigation it performs of any home health care agency, certified home health care agency, CASA, client of Erie county, or any other person or agency, which affects the delivery of services provided for under this local law;
- c. make recommendations to the commissioner of any penalties it seeks to impose for non-compliance with any federal or state laws, rules, regulations or administrative directives;
- d. formulate, promulgate and amend from time to time as necessary, for the approval of the commissioner, regulations which implement the provisions of this local law and which will govern the provision of home health care services by the home health care agencies which contract with the county of Erie. Nothing herein shall preclude the promulgation of county of Erie regulations covering the subjects of basic training, competency testing or any relevant area not specifically referred to in this local law. Before approving a regulation or an amendment thereto, the commissioner shall cause to be held a public hearing on the proposed regulation or amendment. A notice of public hearing shall be published in the official newspapers of the county at least thirty days prior to such public hearing. At the same time a copy of said proposed regulation or amendment shall be filed with the clerk

of the Erie county legislature. Within thirty days of such public hearing, a final regulation containing any amendments shall be published in the same manner and filed with the clerk of the Erie county legislature. Said regulation shall be effective ten days following publication.

- e. Issue a written client's home care manual, including a comprehensive bill of rights, which shall be distributed to each client or the client's representative at the start of services. The client's home care manual shall contain at least the following:
  - (i) right to be informed of the name of the person supervising the client's care and of the manner in which that person may be contacted;
  - (ii) client's or client's representative's responsibility for participation in the development and implementation of the home health care plan;
  - (iii) explanation of confidential treatment of all client information retained in the agency and the requirement for written consent for releases of information to persons not otherwise authorized under law to receive it;
  - (iv) policy regarding client access to the clinical record;
  - (v) explanation of grievance procedure and right to file grievances with the agency without discrimination or reprisal from the agency or its employees;
  - (vi) procedures for registering complaints with the county of Erie;
  - (vii) right of the client to be notified as to who will be providing services and their replacements thereafter;
  - (viii) right of the client to be informed of all treatments and when and how services will be provided;
  - (ix) right of the client to demand photo identification of agency personnel;
  - (x) the necessity of keeping the care plan posted in a conspicuous place in the home and the need to notify the home health care agency in the event their aide does not report to work;
  - (xi) right to recommend changes in policies and services to agency staff, county and state representatives or any outside representative of the patient's choice, free from restraint, interference, coercion, discrimination or reprisal;
  - (xii) right to be treated with consideration, respect and full recognition of their dignity and individuality;
  - (xiii) any other information as required by the county of Erie and the state of New York.

- f. Establish procedures to promptly review and process any complaint which has been filed against a home health care agency or certified home health care agency under contract with the county. The home health review unit shall:
  - (i) formally notify a contract agency of any complaint which has been filed against it;
  - (ii) grant the contract agency seven days to respond in writing to any complaint notice;
  - (iii) conduct an on-site review of agency office, client records or client home, as necessary, to investigate the complaint;
  - (iv) if warranted, recommend sanctions to the commissioner.

Section 10. **Implementation of criminal records check requirement.** The commissioner of central police services shall maintain a system for processing name checks of both current and prospective employees in such manner as will minimize backlogs and delays of service. The department of central police services shall charge a fee of at least five dollars for each name checked.

Section 11. **Advisory board.** The Erie county home health care advisory board is hereby continued under the direction of the Erie county executive, to continually evaluate the in-home health delivery system in Erie county. The advisory board shall consist of eleven members, including: the commissioner of social services; the Erie county commissioner of health; the Erie county commissioner of senior services; the chairman of the health committee of the Erie county legislature, or said chairman's designee; the president of the Erie county consortium of home care agencies; three persons appointed by the Erie county executive; and three persons appointed by the chairman of the Erie county legislature. Each of the three persons appointed by the Erie county executive and by the chairman of the Erie county legislature shall be appointed to a term of three years. Such appointments shall include health care and social service professionals, home health care providers and community representatives. The chairman of the advisory board shall not be a county officer or employee and shall be appointed by the chairman of the county legislature from among the members of the advisory board. The advisory board shall meet at least four times annually. The advisory board shall, among other matters:

- (i) assist in the development of Erie county rules and regulations governing the delivery of home health care services; and
- (ii) review and make recommendations with respect to Erie county's implementation of the home health review process.

Section 13. **Construction.** If any clause, sentence, paragraph, subdivision or section, or part thereof, of this local law shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 14. **Repeals.** Erie county local law number five of nineteen hundred eighty-six, as amended by Erie county local law number six of nineteen hundred eighty-nine, Erie county local law number six of nineteen hundred ninety-one, Erie county local law number nine of nineteen hundred ninety-three, and Erie county local law number four of nineteen hundred ninety-six is hereby repealed.

Section 15. **Effective date.** This local law shall be effective immediately.

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