

NEW YORK PUBLISHES PROPOSED REGULATIONS ON ADVANCED HOME HEALTH AIDES

Home Care Alert
May 31, 2018

On March 30, 2018 the New York State Department of Health (DOH) published proposed regulations for the Advanced Home Health Aide (AHHA) program in the State Register. The AHHA program was created by amending Article 139 of the Education Law (the Nurse Practice Act) to designate AHHAs who could perform advanced tasks with appropriate training and upon assignment by, and supervision of, registered nurses. The goal of the AHHA program is to enable more people to live in home and community based settings, and provide support to family caregivers and their loved ones.

The DOH's proposal amends 10 NYCRR Part 700 to define an "advanced home health aide" as a certified home health aide who has met all requirements to perform advanced tasks and is listed in the Registry. Parts 763, 766, 793, 794, and 1001 also will be amended to reflect requirements related to AHHAs and the supervisions thereof by registered professional nurses employed by home care agencies (certified home health agencies (CHHAs), long term home health care programs (LTHHCPS), and licensed home care services agencies (LHCSAs)) – as well as Enhanced Assisted Living Residences and hospice programs.

Under the proposed regulations, AHHAs are defined as certified HHAs who are authorized to perform "advanced tasks" as defined by the Education Law (including the administration of medications which are routine and prefilled or otherwise packaged in a manner that promotes relative ease of administration). LHCSAs will only be permitted to employ AHHAs who are listed in the NYS Home Care Registry. Furthermore, LHCSA patients will have the right to refuse the provision of advanced tasks by an AHHA, in which case the LHCSA must ensure that such tasks are provided by a registered professional nurse.

The DOH noted that home care services agencies have the option to use AHHAs, but the program is voluntary. The DOH also stated that the State Education Department, in consultation with the DOH, will approve programs that train AHHAs and the DOH expects these training programs "to be managed within existing resources." It is not clear whether training provided to training AHHAs will be creditable for wage parity purposes.

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If you have any questions regarding the proposed regulations, please contact any member of the Hodgson Russ Home Care Team.

