TITLE 8 SOCIAL SERVICES
CHAPTER 370 OVERSIGHT OF LICENSED HEALTHCARE FACILITIES AND COMMUNITY BASED WAIVER PROGRAMS
PART 22 REQUIREMENTS FOR HOME HEALTH AGENCIES

8.370.22.1 ISSUING AGENCY: New Mexico health care authority.
[8.370.22.1 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.370.22.2 SCOPE: These regulations apply to:

A. public, profit or nonprofit home health agencies providing services as outlined by these regulations;

B. any facility providing services as outlined by these regulations which by federal regulation must be licensed by the state of New Mexico to obtain or maintain full or partial, permanent or temporary federal funding.
[8.370.22.2 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.370.22.3 STATUTORY AUTHORITY: The regulations set forth herein have been promulgated pursuant to the general authority granted under Subsection E of Section 9-8-6 NMSA 1978, and Subsection A of Section 24A-1-3 NMSA 1978, as amended.
[8.370.22.3 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.370.22.4 DURATION: Permanent.
[8.370.22.4 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.370.22.5 EFFECTIVE DATE: xx/xx/2026 unless a different date is cited at the end of a section.
[8.370.22.5 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.370.22.6 OBJECTIVE:

A. Establish minimum standards for licensing of home health agencies who provide medically directed therapeutic or supportive services to a patient/client in their place of residence.

B. Monitor home health agencies' compliance with these regulations through surveys to identify and address any areas which could be dangerous or harmful to a patient/client or staff.

C. Encourage the establishment and maintenance of home health agencies to provide medically directed therapeutic or supportive services, to a patient/client in their place of residence, that maintain or improve the health and quality of life to patients/clients who are in New Mexico.
[8.370.22.6 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.370.22.7 DEFINITIONS: For purposes of these regulations the following shall apply:

A. Definitions beginning with "A":

(1) "Abuse" means any act or failure to act performed intentionally, knowingly, or recklessly that causes or is likely to cause harm to a patient/client, including:

(a) physical contact that harms or is likely to harm a patient/client of a home health agency;

(b) inappropriate use of a physical restraint, isolation or medication that harms or is likely to harm a patient/client;

(c) inappropriate use of a physical or chemical restraint, medication or isolation as punishment or in conflict with a provider's order;

(d) medically inappropriate conduct that causes or is likely to cause physical harm to a patient/client;

(e) medically inappropriate conduct that causes or is likely to cause psychological harm to a patient/client;

(f) an unlawful act, a threat or menacing conduct directed toward a patient/client that results and might reasonably be expected to result in fear or emotional or mental distress to a patient/client.

(g) verbal abuse, including profane, threatening, derogatory, or demeaning language, spoken or conveyed with the intent to cause mental anguish.

(2) "Administrator/director" means a qualified individual, on-site, appointed by the governing body who organizes and directs the agency's on-going functions, maintains liaison among the governing

body, the group of professional personnel and other staff, employs qualified personnel, ensures adequate staff education, ensures the accuracy of public information materials and activities, and implements an effective budgeting and accounting system. A branch office must have a qualified on-site branch manager who receives direction and supervision from the parent home health agency's administrator/director.

(3) "Advanced practice providers" means licensed healthcare professionals with advanced education and training who can diagnose, treat, and manage patient care which includes nurse practitioners (NPs), clinical nurse specialists (CNSs), physician assistants (PAs), certified registered nurse anesthetists (CRNAs).

(4) "Applicant" means the individual who, or organization which, applies for a license. If the applicant is an organization, then the individual signing the application on behalf of the organization must have authority from the organization. The applicant must be the owner.

(5) "Auxiliary workstation" means a non-licensed, non-staffed convenience workstation away from the licensed location of the home health agency's office.

B. Definitions beginning with "B":

(1) "Branch office" means a licensed location or site from which a home health agency provides services and receives direction and supervision from the parent home health agency on a day-by-day basis.

(2) "Bylaws" means a set of rules adopted by a home health agency for governing the agency's operation.

C. Definitions beginning with "C":

(1) "Certified nurse anesthetist (CRNA)" also known as "nurse anesthetist" or "nurse anesthesiologist" means an advanced practice registered nurse who is specially educated and licensed to administer anesthesia and provide anesthesia-related care to patients before, during, and after medical procedures.

(2) "Clinical/service note" means a written notation dated and signed by a member of the health team that summarizes facts about care furnished and the patient/client's response during a given period of time.

(3) "Clinical nurse specialist" means a registered nurse who is licensed by the state of New Mexico for advanced practice as a clinical nurse specialist pursuant to the Nursing Practice Act, Sections 61-3-1 to 61-3-31 NMSA 1978.

D. Definitions beginning with "D": [RESERVED]

E. Definitions beginning with "E": "Exploitation" means an unjust or improper use of a person's money or property for another person's profit or advantage, financial, or otherwise.

F. Definitions beginning with "F": [RESERVED]

G. Definitions beginning with "G": "Governing body": means the governing authority of a facility which has the ultimate responsibility for all planning, direction, control and management of the activities and functions of a home health agency licensed pursuant to these regulations.

H. Definitions beginning with "H":

(1) "Home health agency" means any business, entity or organization primarily engaged in providing medically directed acute, restorative, rehabilitative, maintenance, preventive or supportive services through professional or paraprofessional personnel to a patient/client in the patient/client's residence. This term does not apply to any individual, licensed practitioner providing services within the scope of their practice or to any business, entity or organization providing non-medically directed services in a patient/client's place of residence.

(2) "Home health aide" means a person who has successfully completed a course of training or demonstrated competency in assisting patient/clients to meet basic personal care needs. A home health aide provides medically directed personal care to patient/clients such as, but not limited to, taking and recording vital signs, bathing, grooming, feeding, ambulation, exercise, oral hygiene and skin care.

(3) "Home health services" means those medically directed therapeutic or supportive services provided by a home health agency to a patient/client in their place of residence.

(4) "Homemaker" means a person who has successfully demonstrated competency to provide household services such as cleaning, meal preparation, laundry, shopping and to assist a patient/client with activities of daily living.

I. Definitions beginning with "I": [RESERVED]

J. Definitions beginning with "J": [RESERVED]

K. Definitions beginning with "K": [RESERVED]

L. Definitions beginning with "L":

(1) "Level of care" means the long-term care assessment abstract which medically qualifies a patient/client for medicaid waiver services.

(2) "Licensed practical nurse" means a person licensed as a practical nurse in the state of New Mexico under the Nursing Practice Act, Sections 61-3-1 to 61-3-31 NMSA 1978.

(3) "Licensee" means the person(s) who, or organization which, has an ownership or similar interest in the home health agency and in whose name a license for a home health agency has been issued and who is legally responsible for compliance with these regulations.

(4) "Licensing authority" means the New Mexico health care authority.

M. Definitions beginning with "M": "Medically directed services" means in-home services that are provided in accordance with a patient/client's plan or level of care which is reviewed and approved by a provider at least every 60 calendar days.

N. Definitions beginning with "N":

(1) "Neglect" means the failure of the caretaker to provide basic needs of a person, such as clothing, food, shelter, supervision, and care for the physical and mental health of that person. Neglect causes or is likely to cause harm to a person.

(2) "Nurse practitioner" means a registered nurse who is licensed by the state of New Mexico for advanced practice as a certified nurse practitioner pursuant to the Nursing Practice Act, Sections 61-3-1 to 61-3-31 NMSA 1978.

O. Definitions beginning with "O":

(1) "Occupational therapist" means a person who is licensed by the state of New Mexico as an occupational therapist, pursuant to Sections 61-12A-1 to 61-12A-24 NMSA 1978.

(2) "Occupational therapist assistant" means a person who is licensed by the state of New Mexico as a certified occupational therapist assistant, pursuant to Sections 61-12A-1 to 61-12A-24 NMSA 1978.

P. Definitions beginning with "P":

(1) "Parent home health agency" means an agency that develops and maintains responsibility for the operation and administrative control of branch office(s).

(2) "Patient/client" means a person who is receiving home health care services.

(3) "Personal care attendant/provider" means a person who has successfully demonstrated competency to provide assistance with personal care such as bathing, grooming, bowel and bladder needs.

(4) "Physical therapist" means a person who is licensed by the state of New Mexico as a physical therapist, pursuant to Sections 61-12-1 to 61-12-21 NMSA 1978.

(5) "Physical therapist assistant" means a person who is licensed by the state of New Mexico as a physical therapist assistant, pursuant to Sections 61-12-1 to 61-12-21 NMSA 1978.

(6) "Physician" means a person who is a doctor of medicine, osteopathy or podiatry licensed to practice medicine.

(7) "Physician associate (PA)" also known as a "physician assistant" means a person who is a licensed medical professional who is qualified by education and training to provide medical services under the supervision of a licensed physician.

(8) "Plan of care" means a written plan of treatment in conformance with providers' orders which sets forth each service that the home health agency agrees to provide to a patient/client.

(9) "Plan of correction" means a plan written and signed by the licensee or representative addressing how and when the licensing authority's identified deficiencies will be corrected.

(10) "Policy" means a statement of principle that guides and determines present and future decisions and actions.

(11) "Procedure" means the action(s) that must be taken in order to implement a policy.

(12) "Professional personnel" means the staff of the agency or personnel under contract or agreement with the agency who require a license, registration or certification by the state of New Mexico.

(13) "Provider" means any individual authorized to deliver health care services, including diagnosis, treatment, and preventive care and can include physicians and advanced practice providers as identified in this rule.

(14) "Psychological harm" means psychological harm that causes mental or emotional incapacitation for a prolonged period of time or that causes extreme behavioral change or severe physical symptoms that require psychological or psychiatric care.

Q. Definitions beginning with "Q": "Quality improvement" means an on-going assessment program which addresses clinical care and program evaluation.

R. Definitions beginning with "R":

(1) "Registered nurse" means a person who holds a certificate of registration as a registered

nurse in the state of New Mexico under the Nursing Practice Act, Sections 61-3-1 to 61-3-31 NMSA 1978.

(2) "Residence" means the place in New Mexico where a patient/client is residing at the time home health services are provided.

S. Definitions beginning with "S":

(1) "Social worker" means a person who is licensed by the state of New Mexico as a social worker, pursuant to Sections 61-31-1 to 61-31-25 NMSA 1978.

(2) "Speech language pathologist" means a person licensed by the state of New Mexico to practice speech language pathology, pursuant to Sections 61-14B-1 to 61-14B-25 NMSA 1978.

(3) "Supervised practical training" means training in a laboratory or other setting in which the trainee demonstrates knowledge while performing tasks on an individual under the direct supervision of a registered nurse or licensed practical nurse.

(4) "Supervision" means direction, guidance and oversight by a qualified person, within their sphere of competence, of an individual providing services in accordance with a patient/client's plan of care.

(5) "Supplemental instructor" means a person who has successfully completed the home health aide program, has been formally evaluated and determined to have required competencies, and has a minimum of one year of direct experience in home health or a related care setting and is working directly under the primary instructor.

(6) "Supportive services": means medically or non-medically directed assistance to patient/clients to meet basic activities of daily living.

T. Definitions beginning with "T": "Therapeutic services" means a medically directed activity or activities to patients/clients based upon a knowledge of disease processes provided by a home health agency.

U. Definitions beginning with "U": [RESERVED]

V. Definitions beginning with "V": [RESERVED]

W. Definitions beginning with "W": "Waive/waiver": means to refrain from pressing or enforcing compliance with a portion or portions of these regulations for a limited period of time in which the health, safety, or welfare of the patient/clients and staff are not in danger. Waivers are issued at the sole discretion of the licensing authority.

X. Definitions beginning with "X": [RESERVED]

Y. Definitions beginning with "Y": [RESERVED]

Z. Definitions beginning with "Z": [RESERVED]

[8.370.22.7 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.370.22.8 STANDARD OF COMPLIANCE: The degree of compliance required throughout these regulations is designated by the use of the words "shall" or "must" or "may". "Shall" or "must" means mandatory. "May" means permissive. The use of the words "adequate", "proper", and other similar words means the degree of compliance that is generally accepted throughout the professional field by those who provide services of home health agencies as outlined in these regulations.

[8.370.22.8 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.370.22.9 HOME HEALTH AGENCY AND SCOPE OF SERVICES: An agency or organization meeting the following criteria must be licensed as a home health agency by the health care authority:

A. Provides at least one medically directed service delivered by a licensed physician such as, but not limited to:

(1) skilled nursing;

(2) physical therapy;

(3) occupational therapy;

(4) speech language pathology.

B. At least one of the medically directed services must be provided in its entirety by employees of the agency; additional services may be arranged through contractual agreements.

C. The agency may also offer non-medically directed (ancillary or supportive) services, but these services alone do not meet the requirement as a medically directed service.

D. Home health agency excludes:

(1) independent or sole practitioners providing in-home services under their respective professional practice acts;

(2) medical suppliers who do not provide services listed above;

(3) family, friends, volunteers and paid individuals not under the direct control of a home health agency.

E. Branch office: Means a licensed location from which a home health agency provides services to patient/clients. A home health agency may not apply for a license to open a branch office unless the parent agency has been in operation for at least one year, had an annual survey conducted by the licensing authority, and is found to be in substantial compliance with these regulations.

(1) A branch office must be located within a reasonable distance of a parent home health agency to support continuity and quality of care, considering travel time, staffing, coverage, and patient safety.

(2) A branch office must have a qualified on-site administrator who receives direction and supervision from the parent home health agency's administrator/director.

(3) A branch office must be able to provide the same services as the parent home health agency.

(4) Original patient/client records, if stored at the parent home health agency, shall be made available at the request of the (HCA) within two hours.

F. Auxiliary workstation: A non-licensed, non-staffed convenience workstation away from the licensed location of the home health agency's office for the limited purposes of storage of supplies and a work area for documentation by staff. The auxiliary workstation shall not function as a branch office, and the following requirements are intended to ensure that the workstation does not become a branch office:

(1) the name of the agency must not be identified by signage at the workstation;

(2) the telephone number for the workstation shall not be advertised or otherwise made available to persons or individuals other than staff of the agency;

(3) patient/clients shall only be admitted by and through the licensed location of the agency;

(4) no original patient/client records, copies of patient/client records or personnel records shall be maintained by the agency at the auxiliary workstation.

[8.370.22.9 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.370.22.10 INITIAL LICENSURE PROCEDURES: The authority to determine if a person(s) or organization is subject to regulation under the statute is inherent in the responsibility to regulate agencies that are within the definitions of the statute and these regulations. To obtain an initial license for a home health agency pursuant to these regulations, the following procedures must be followed by the applicant:

A. These regulations should be thoroughly understood by the applicant and used as reference prior to applying for initial licensure.

B. The following documents must be submitted to the HCA:

(1) Letter of intent: Submit to the HCA a letter of intention to open a home health agency pursuant to these regulations.

(2) Application for initial license: All information requested by the HCA must be provided. All applications for an initial license must be accompanied by the required non-refundable fee.

(3) Functional program outline: Each application for initial licensure must be accompanied by a functional program outline that provides the following information:

(a) scope of Services to be provided by the proposed home health agency;

(b) estimated number of patient/clients to be served monthly;

(c) services that will be contracted or arranged with another health provider, i.e., homemaker, I.V. therapy, etc.;

(d) hours and days of operation.

(4) Home health agency policies: Submit for review and approval by the HCA, a copy of the home health agency policies and a copy of these licensing regulations annotated to the agency's policies and procedures. Note: Each regulation must be referenced to the appropriate policy by writing the page or policy number by the corresponding regulation.

C. Upon the HCA's receipt and approval of documents listed above, a temporary license will be issued. Upon receipt of the temporary license, the home health agency may admit patients/clients.

D. Upon becoming operational and accepting a minimum of one patient/client who has received medically directed care, a home health agency must submit a written request to the HCA for the initial survey.

E. Upon completion of the initial survey and determination that the facility is in compliance with these regulations, the HCA shall issue an annual license.

[8.370.22.10 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.370.22.11 LICENSES:

A. Annual license: An annual license is issued for a one-year period to a home health agency which has met all requirements of these regulations.

B. Temporary license: The HCA may, at its sole discretion, issue a temporary license prior to the initial survey, or when the HCA finds partial compliance with these regulations, or for administrative purposes.

(1) A temporary license shall cover a period of time, not to exceed 120 calendar days, during which the facility must correct all specified deficiencies.

(2) In accordance with Subsection D of Section 24A-1-5 NMSA 1978, no more than two consecutive temporary licenses shall be issued.

C. Amended license: A licensee must apply to the HCA for an amended license when there is a change of administrator/director, or when there is a change of name for the facility.

(1) application must be on a form provided by the HCA.

(2) application must be accompanied by the required fee for an amended license.

(3) application must be submitted within 10 business days of the change.

[8.370.22.11 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.370.22.12 LICENSE RENEWAL:

A. The licensee must submit renewal application on forms provided by the HCA, along with the required fee at least 30 days prior to expiration of the current license.

B. Upon receipt of renewal application, required fee and an on-site survey, the HCA will issue a new license effective the day following the date of expiration of the current license, if the agency is in substantial compliance with these regulations.

C. If the licensee fails to submit a renewal application with the required fee and the current license expires, the agency shall cease operations until it obtains a new license through the initial licensure procedures. Subsection A of Section 24A-1-5 NMSA 1978, as amended, provides that no health facility shall operate without a license.

[8.370.22.12 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.370.22.13 POSTING OF LICENSE: The agency's current, original license must be posted in a conspicuous place at the licensed location, as identified in the application for licensure.

[8.370.22.13 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.370.22.14 NON-TRANSFERABLE RESTRICTION ON LICENSE: A license shall not be transferred by assignment or otherwise to other persons or locations. The license shall be void and must be returned to the HCA when any one of the following situations occur:

A. ownership of the agency changes;

B. the agency changes location of its office;

C. licensee of the agency changes;

D. the agency discontinues operation;

E. an agency wishing to continue operation as a licensed home health agency under circumstances listed above must submit a new letter of intent in accordance with Section 10 of these regulations, at least 30 calendar days prior to the anticipated change.

[8.370.22.14 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.370.22.15 AUTOMATIC EXPIRATION OF LICENSE: A license will automatically expire at midnight on the day indicated on the license as the expiration date, unless sooner renewed, suspended, revoked, or:

A. on the day an agency discontinues operation;

B. on the day an agency is sold, leased, or otherwise changes ownership or licensee;

C. on the day an agency changes location of its office.

[8.370.22.15 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.370.22.16 SUSPENSION OF LICENSE WITHOUT PRIOR HEARING: In accordance with Subsection H of Section 24-1-5 NMSA 1978, as amended, if immediate action is required to protect human health and safety, the licensing authority may suspend a license pending a hearing, provided such hearing is held within five working days of the suspension, unless waived by the licensee.

[8.370.22.16 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.370.22.17 GROUNDS FOR REVOCATION OR SUSPENSION OF LICENSE, DENIAL OF INITIAL OR RENEWAL APPLICATION FOR LICENSE, OR IMPOSITION OF INTERMEDIATE SANCTIONS OR CIVIL MONETARY PENALTIES: A license may be revoked or suspended, an initial or renewal application for license may be denied, or intermediate sanctions or civil monetary penalties may be imposed after notice and opportunity for a hearing, for any of the following reasons:

A. failure to comply with any provision of these regulations;

B. failure to allow survey by authorized representatives of the HCA;

C. presence of any person active in the operation of the licensed agency who has been convicted of a felony and the criminal conviction directly relates to the particular employment, trade, business or profession or who has been convicted of homicide, kidnapping, human trafficking, trafficking in controlled substances, criminal sexual penetration or related sexual offenses or child abuse or related offenses;

D. misrepresentation or falsification of any information on application forms or other documents provided to the HCA;

E. discovery of repeat violations of these regulations during surveys;

F. failure to provide the required care and services as outlined by these regulations for the patients/clients receiving care from the agency;

G. failure to begin operations prior to the expiration of the second consecutive temporary license.

[8.370.22.17 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.370.22.18 HEARING PROCEDURES:

A. Hearing procedures for adverse action taken by the HCA against an agency's license as outlined in Section 16 and 17 above will be held in accordance with adjudicatory hearings, New Mexico health care authority, 8.370.2 NMAC.

B. A copy of the above regulations may be requested at any time by contacting the HCA.

[8.370.22.18 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.370.22.19 AGENCY SURVEYS:

A. Application for licensure, whether initial or renewal shall constitute permission for entry into and survey of a home health agency by authorized HCA representatives during pendency of the application, and if licensed, during the licensure period.

B. The HCA shall perform, as it deems necessary, unannounced or announced on-site surveys to determine compliance with these regulations, to investigate complaints, or to investigate the appropriateness of licensure for any alleged unlicensed facility. The HCA may include patient/client home visits as part of any survey or investigation.

C. Upon receipt of the official deficiency statement from the HCA, the licensee or their representative will be required to submit a plan of correction to the HCA within 10 calendar days, stating how the agency intends to correct each violation noted and the expected date of completion.

D. The HCA may, at its sole discretion, accept the plan of correction as written or require modifications of the plan by the licensee.

[8.370.22.19 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.370.22.20 ACCEPTANCE OF PATIENTS/CLIENTS: Patients/clients must be accepted for treatment by the agency when there is a reasonable expectation that the patient/client's health care or supportive service needs can be met adequately in the patient/client's place of residence.

[8.370.22.20 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.370.22.21 OFFICE REQUIREMENTS:

A. An agency licensed pursuant to these regulations shall establish and maintain an official office for the conduct of its business with posted hours of operation.

B. The office space must be able to maintain, store and safeguard agency records.

[8.370.22.21 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.370.22.22 HEALTH AND AGE REQUIREMENTS:

A. All staff or contracted personnel involved in the care of patients/clients shall be at least 18 years of age.

B. All staff, contracted personnel, or volunteers having patient/client contact must have a TB test in accordance with current centers for disease control and prevention recommendations.
[8.370.22.22 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.370.22.23 REQUIREMENTS FOR LICENSURE OF PROFESSIONALS: Any health professional employed or contracted by the home health agency, such as, but not limited to, physicians, physician's assistants, nurse practitioners, physical or occupational therapists, speech language pathologists, registered nurses, licensed practical nurses, licensed or certified social workers, physical therapy assistants or certified occupational therapy assistants, must have a current license, registration or certification from the state of New Mexico. Proof of licensure must be maintained on file by the agency.
[8.370.22.23 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.370.22.24 GOVERNING BODY: Each agency licensed pursuant to these regulations must have a governing body who adopts and reviews, at least annually, written by-laws or policies and procedures which govern the day-to-day operation of the agency.

A. The governing body may include the licensee of the agency.

B. The governing body must have full legal authority and responsibility for the operation of the agency.

C. The governing body must appoint a qualified administrator.

D. The governing body must oversee the management and fiscal affairs of the agency.

E. The governing body must meet at least annually. These meetings shall be documented by dated minutes, and a copy of these minutes shall be kept on file in the agency.
[8.370.22.24 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.370.22.25 [RESERVED]
[8.370.22.25 NMAC - Repealed xx/xx/2026]

8.370.22.26 ADMINISTRATOR: Each agency licensed pursuant to these regulations must have an administrator appointed by the governing body who:

A. is a licensed physician; or

B. is a registered nurse; or

C. has training and experience in health services administration, and at least one year of supervisory or administrative experience on home health care.

(1) For individuals that began employment with a home health agency prior to January 13, 2018, a person who has training and experience in health service administration and at least one year of supervisory or administrative experience in home health care or a related health care program.

(2) For individuals that began employment with a home health agency on or after January 13, 2018, a person who:

(a) Is a licensed physician, a registered nurse, or holds an undergraduate degree; and

(b) Has experience in health service administration, with at least one year of supervisory or administrative experience in home health care or a related health care program, may also be the supervising provider.

D. is responsible for implementing the directions of the governing body and organizing and directing the on-going functions of the agency in compliance with these regulations.

E. The governing board or an administrator appointed by the governing body pursuant to this section shall authorize a qualified person in writing to act in the absence of the administrator.
[8.370.22.26 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.370.22.27 RESPONSIBILITIES OF AGENCY PERSONNEL: Home health agencies utilizing any of the following personnel for provision of home care services must ensure the responsibilities listed below are met.

A. Primary service personnel: including, but not limited to, registered nurses, physical therapists, occupational therapists, speech therapists, social workers, shall:

(1) provide necessary professional care and guidance within the scope of their licensure;

(2) evaluate the home for its suitability for the patient/client's care;

(3) teach the patient/client and caregivers how to provide care;

(4) develop, evaluate and coordinate the patient/client's plan of care on a continuing basis;

(5) inform the provider and other personnel of changes in the patient/client's condition and needs;

(6) perform an evaluation visit and follow-up visits as needed;

(7) prepare clinical notes.

B. Secondary service personnel: Other licensed personnel, including, but not limited to, respiratory therapists, licensed practical nurses, physical therapy assistants, certified occupational therapist assistants, shall:

(1) provide services in accordance with an established plan of care and agency policies;

(2) provide necessary professional care and guidance within the scope of their licensure;

(3) prepare clinical notes;

(4) evaluate the home for its suitability for the patient/client's care;

(5) teach the patient/client and caregiver how to provide care;

(6) inform the provider and other personnel of changes in the patient/client's condition and needs.

C. Non-licensed personnel: Individuals, including, but not limited to, home health aides, homemakers, personal care attendants, shall:

(1) provide personal care including assistance in the activities of daily living;

(2) assist to maintain a safe and clean environment;

(3) perform household services and other activities as assigned;

(4) communicate with appropriate supervisor about changes or variations in the patient/client or home situation;

(5) teach the patient/client and caregivers how to provide care, within the level of their competency;

(6) prepare patient/client notes.

[8.370.22.27 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.370.22.28 SUPERVISING PERSONNEL:

A. The medically directed services provided by the agency must be supervised by a licensed professional.

B. The supervising staff member or their alternate who is similarly qualified must be available at all times during operating hours of the agency.

C. The supervising staff member or alternate who is similarly qualified must participate in all activities relevant to the services provided, including developing qualifications for personnel assignments.

[8.370.22.28 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.370.22.29 SUPERVISION OF SECONDARY AND NON-LICENSED PERSONNEL:

A. Licensed practical nurses: Services and care provided by a licensed practical nurse will be furnished under the supervision of a registered nurse who has a minimum of one year home health experience or a minimum of two years' nursing experience. Such supervision will include, at a minimum:

(1) Identify appropriate tasks to be performed by the licensed practical nurse.

(2) Conduct and document a supervisory visit to at least one patient/client residence at least every 60 calendar days, or more often as indicated.

B. Physical therapy assistants: Services and care provided by a physical therapy assistant shall be furnished under the supervision of a physical therapist, with a minimum of one year experience. Such supervision shall include, at a minimum:

(1) Identify appropriate tasks to be performed by the physical therapy assistant.

(2) Conduct and document a supervisory visit to the patient/client residence at least every 30 calendar days or as indicated.

(3) Be on-call and readily available, during business hours or have appointed another physical therapist in their absence.

(4) Will have oversight of no more than two physical therapy assistants.

C. Certified occupational therapy assistants: Services and care provided by a certified occupational therapy assistant will be furnished under the supervision of an occupational therapist, with a minimum of one year experience. Such supervision will include, at a minimum:

(1) Identify appropriate tasks to be performed by the certified occupational therapy assistant.

(2) Conduct and document a supervisory visit to the patient/client residence a minimum of every 30 days:

D. Home health aides: Services and care provided by a home health aide shall be furnished under the supervision of a licensed professional, such as registered nurse, physical therapist, occupational therapist, or a speech language pathologist with a minimum of one year experience. Such supervision shall include, at a minimum:

(1) Preparation of written patient/client instructions that identify appropriate tasks to be performed by the home health aide.

(2) Conduct and document a supervisory visit to the patient/client residence at least every 60 calendar days or as often as the condition of the patient/client requires. Patient/clients who have multiple home health aides require only one supervisory visit. This home health aide need not be present in the patient/client's residence at the time of the supervisory visit.

E. Personal care attendants or equivalent: Services and care provided by a personal care attendant or equivalent will be supervised by a licensed professional or by an appropriately qualified staff member who has one-year direct patient care experience. Such supervision shall include, at a minimum:

(1) Prepare written patient/client care instructions that identify appropriate tasks to be performed by the personal care attendant or equivalent.

(2) Conduct and document a supervisory visit to the patient/client's residence at least every 60 calendar days or as often as the condition of the patient/client requires. Patient/clients who have multiple personal care attendants or equivalent require only one supervisory visit. The personal care attendant need not be present in the patient/client's residence at the time of the supervisory visit.

F. Homemakers: Services and care provided by a homemaker shall be supervised by a licensed professional or by an appropriately qualified staff member who has one-year direct patient care experience. Such supervision will include, at a minimum:

(1) Prepare written patient/client care instructions which identify appropriate tasks to be performed by the homemaker.

(2) Conduct and document a supervisory visit to the patient/client's residence at least every 60 calendar days or as often as the condition of the patient/client requires. Patient/clients who have multiple homemakers require only one supervisory visit. A homemaker need not be present in the patient/client's residence at the time of the supervisory visit.

[8.370.22.29 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.370.22.30 HOME HEALTH AIDE TRAINING REQUIREMENTS:

A. General: No agency licensed pursuant to these regulations may employ an individual as a home health aide on a full-time, part-time, temporary, per diem, or other basis unless:

(1) that individual is competent to provide services as a home health aide;

(2) that individual has completed a training program or a competency evaluation program as outlined in these regulations.

B. Source of training: Any agency that elects not to provide formal training must establish and document a method for determining the competency of each home health aide.

C. Course requirements: Home health aides: The home health aide training program shall address each of the subject areas listed below through classroom and supervised practical training totaling at least 75 hours, with at least 16 hours devoted to supervised practical training. The individual being trained must complete at least 16 hours of classroom training before beginning the supervised practical training to include:

(1) communications skills;

(2) observation, reporting and documentation of patient status and the care or service furnished;

(3) reading and recording of vital signs;

(4) basic infection control procedures;

(5) basic elements of body functioning and changes in body function that must be reported to an aide's supervisor;

(6) maintenance of a clean, safe and healthy environment;

(7) recognition of emergencies and knowledge of emergency procedures (including CPR and first aid);

(8) the physical, emotional and developmental needs of and ways to work with the populations served by the home health agency, including the need for respect for the patient, their privacy and their property;

(9) appropriate and safe techniques in personal hygiene and grooming that include, but are not limited to, bathing, shampooing, nail and skin care, oral hygiene and toileting;

(10) safe transfer techniques and ambulation;
(11) normal range of motion and positioning;
(12) nutrition and hydration;
(13) patient/client rights, including respect for cultural diversity;
(14) any other task that the home health agency may choose to have the home health aide perform.

D. Instructor personnel:

(1) The training of home health aides must be performed by, or under the supervision of, a registered nurse who possesses a minimum of two years of nursing experience, at least one year of which must be in the provision of home health services.

(2) Other pertinent personnel from the health professions may also be utilized as supplemental instructors.

E. Documentation of training or competency evaluation:

(1) All agencies that provide home health aide training courses or competency evaluations shall document such training or competency evaluation for each individual taking the training or competency evaluation. Competency evaluation shall include both a written test and a skills demonstration. Skills demonstration shall be observed and documented by a registered nurse or licensed practical nurse.

(2) Documentation must include at least the following information:

(a) Training:
(i) name of individual taking training;
(ii) title, purpose and objectives of class;
(iii) name of instructor and qualifications;
(iv) number of hours of instruction;
(v) date instruction was given.

(b) Competency:
(i) name of individual being evaluated for competency;
(ii) date and method used to determine competency.

F. Annual in-service training: Each home health aide shall participate in at least 12 documented hours of in-service training during each 12 month period. This requirement may be fulfilled on a prorated basis during the home health aide's first year of employment at the home health agency.

G. Annual performance review: A performance review, including written evaluation and skills demonstration shall be completed on each home health aide no less frequently than every 12 months.
[8.370.22.30 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.370.22.31 HOMEMAKER/PERSONAL CARE ATTENDANT OR EQUIVALENT TRAINING REQUIREMENTS:

A. General: No agency licensed pursuant to these regulations may employ an individual as a homemaker/personal care attendant or equivalent on a full-time, part time, temporary, per diem or other basis unless:

(1) That individual is competent to provide assigned tasks as a homemaker/personal care attendant or equivalent.

(2) That individual has completed a training program or a competency evaluation program as outlined in these regulations.

B. Source of training: Any agency licensed pursuant to these regulations may provide training under the following conditions:

(1) The agency shall submit, in writing, its intent to conduct homemaker/personal care attendant or equivalent training and the source of training material. Approval of the curriculum must be obtained from the HCA prior to instituting training.

(2) Agencies electing not to provide formal training must identify the method by which they will establish the competency of homemaker/personal care attendant or equivalent and document that each is determined to be competent.

(3) The HCA may deny a home health agency the right to conduct homemaker/personal care attendant or equivalent training or competency evaluation, for a specified period of time, not to exceed two years, if the HCA finds the agency in substantial noncompliance with these regulations.

C. Course requirements: The home health agency's homemaker/personal care attendant or equivalent training program must consist of no less than 40 hours of training, to be completed by the homemaker/personal care attendant or equivalent in the first year of employment. Ten hours of training must be completed prior to placing the

homemaker/personal care employee in a patient/client home. Two of the 10 hours may include agency orientation. Eight of the 10 hours training must be patient/client service specific. The training must address, at a minimum, the following areas:

(1) communication skills;
(2) patient/client rights, including respect for cultural diversity;
(3) recording of information for patient/client records;
(4) nutrition and meal preparation;
(5) housekeeping skills;
(6) care of the ill and disabled, including the special needs populations;
(7) emergency response (including CPR and first aid);
(8) basic infection control;
(9) home safety.

D. Instructor personnel:

(1) The training of homemakers and personal care attendants must be performed by or under the supervision of a registered nurse who possesses a minimum of two years of nursing experience, at least one year of which must be in the provision of home health services.

(2) Other pertinent personnel from the health professions may also be utilized as supplemental instructors.

E. Documentation of training or competency evaluation:

(1) All agencies that provide homemaker/personal care attendant or equivalent training courses or competency evaluations shall document such training or competency evaluation for each individual taking the training or competency evaluation. The training or competency evaluation shall be observed and documented by a licensed professional or a supplemental instructor.

(2) Documentation shall include at least the following information:

(a) Training:
(i) name of individual taking training;
(ii) title, purpose, and objectives of class;
(iii) name of instructor;
(iv) number of hours of instruction;
(v) date instruction was given.

(b) Competency:
(i) name of individual being evaluated for competency;
(ii) date and method used to determine competency.

(3) Annual in-service training: Each homemaker/personal care attendant or equivalent shall participate in at least 10 documented hours of in-service training during each 12-month period.

F. Notification of changes to training program:

(1) A licensed home health agency that conducts its own home health aide training program shall notify the HCA in writing and no later than 30 calendar days before implementation; if there are changes to:

(a) Training curriculum, including new modules updated topics, and altered hours or delivery methods;

(b) Instructors, including qualifications, hiring or departure of registered nurse instructors, or additions and changes to supplemental teaching staff;

(c) Instructional oversight, including changes in supervisory structure, policies for supervised practical training, or evaluation methods

(i) notification must include revised curriculum outlines, instructor resumes, or credential summaries, and updated oversight protocols;

(ii) the agency may not implement changes until written confirmation of acceptance is received from the HCA or immediately if an unexpected change occurs; or

(2) A licensed home health agency that conducts its own home health aide training program shall notify the HCA in writing immediately if any unexpected change occurs.

[8.370.22.31 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.370.22.32 PATIENT/CLIENT RIGHTS: A home health agency licensed pursuant to these regulations shall protect and promote the rights of each individual under its care, including each of the following rights:

A. the right to be fully informed in advance about the care and treatment to be provided by the agency;

B. the right to refuse or terminate treatment;

C. the right to be fully informed in advance of any changes in the care or treatment to be provided by the agency that may affect the individual's well-being;

D. the right to participate in planning care and treatment or changes in care or treatment, except for those individuals adjudged incompetent;

E. the right to be treated with dignity and respect and to be free from abuse, neglect, and exploitation. No home health agency to whom a patient/client's money or valuables have been entrusted shall mingle the patient/client's monies, valuables or property, with that of the licensee, staff or management;

F. the right to voice grievances, with respect to treatment or care that is or fails to be furnished, without discrimination or reprisal for voicing such grievances;

G. the right to confidentiality of medical care and patient/client records;

H. the right to have one's property treated with respect;

I. the right to be fully informed, orally and in writing, of all charges for services to be performed by the agency and of any changes in these charges;

J. the right to be informed of the health facilities complaints hotline number (1-800-752-8649), and the purpose of the hotline, which is to receive complaints against licensed facilities;

K. the right to be fully informed regarding advance directives prior to care being given. This information shall include agency policies on advance directives and a description of applicable state law;

L. the right to be fully informed, in writing, of the patient/client's rights pursuant to these regulations.

[8.370.22.32 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.370.22.33 PLAN OF CARE: Care of a patient/client by the agency must follow a written plan of care that is reviewed at least annually.

A. Medically directed care: An agency shall follow a written plan of care established and periodically reviewed by a provider that provides for continuing care under the supervision of a physician.

(1) The plan of care shall be developed in consultation with appropriate agency staff and cover all pertinent diagnoses, including but not limited to:

(a) mental status;

(b) types of services and equipment required;

(c) frequency and duration of visits;

(d) functional limitations;

(e) activities permitted;

(f) nutritional requirements;

(g) medications and treatments;

(h) safety measures to protect against injury;

(i) plans or goals for care;

(j) any other appropriate items as indicated by diagnosis.

(2) If a provider refers a patient/client under a plan of care cannot be completed until after an evaluation visit, the provider must be consulted to approve additions or modifications to the original plan.

(3) The plan of care must be reviewed by the attending provider and home health agency personnel at least every 60 calendar days or as required by changes inpatient condition or care needs.

(4) Agency professional staff shall promptly alert the providers to any changes that suggest a need to alter the plan of care.

(5) Conformance with provider orders:

(a) Drugs and treatments shall be administered by agency staff only as ordered by the provider.

(b) Licensed professionals must immediately record and sign oral orders and obtain the provider's countersignature.

(c) For a patient/client receiving nursing services, all medications a patient/client may be taking must be checked to identify possible ineffective drug therapy, adverse reactions, significant side effects, drug allergies and contraindicated medications. Medication problems must be promptly reported to the provider.

B. Non-medically directed care: An agency must follow a written plan of care, that includes goals and objectives appropriate to the patient/client being served, and that is established and reviewed at least every 60 calendar days or as required by changes in patient condition or care needs by agency staff.

[8.370.22.33 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.370.22.34 PATIENT/CLIENT RECORDS: Each agency licensed pursuant to these regulations shall maintain the original record for each patient/client receiving services. Patient/client records shall be made available for review upon request of the HCA or the patient/client. Every record must be accurate, legible, promptly completed and consistently organized. A patient/client record shall meet the following criteria:

A. Content of patient/client record:

(1) Medically directed patient/client record shall include:

(a) past and current medical findings in accordance with accepted professional standard;

(b) plan of care;

(c) identifying information;

(d) name of providers;

(e) medications, diet, treatment/services, and activity orders;

(f) signed and dated notes on the day service(s) provided;

(g) copies of summary reports sent to the provider;

(h) evidence of patient/client being informed of rights;

(i) evidence of coordination of care provided by all personnel providing patient/client services;

(j) discharge summary.

(2) Non-medically directed patient/client records shall include:

(a) plan of care;

(b) identifying information;

(c) signed and dated notes on the day service(s) provided;

(d) evidence of patient/client being informed of rights;

(e) evidence of coordination of care of all personnel providing patient/client services;

(f) evidence of discharge.

B. If the patient/client is discharged or transferred to another provider of health care, upon receipt of a signed request from the patient/client, a copy of the original record or an abstract of the same shall be made available to the receiving facility, within 24 hours.

C. Protection **of patient/client records:**

(1) The agency shall ensure that the original patient/client records and information is safeguarded against loss or unauthorized use.

(2) The agency shall have written policies and procedures governing the use and removal of patient/client records and conditions for release of information.

(3) Patient/client's written consent shall be required for release of information not authorized by law.

D. Retention of patient/client records:

(1) The agency shall retain patient/client records for at least 10 years after the patient/client is discharged.

(2) The agency shall maintain original patient/client records for the entire required retention period even if the agency has discontinued operations.

(3) The agency shall notify the HCA in writing, prior to discontinuing operation of the patient/client record storage location.

[8.370.22.34 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.370.22.35 REPORTS AND RECORDS REQUIRED TO BE ON FILE IN THE AGENCY:

A. a copy of the last survey conducted by the HCA;

B. access to 8.370.22 NMAC;

C. agreements or contracts to provide services or care;

D. patient/client records;

E. staff records;

F. training and in-service records as applicable;

G. minutes of advisory group and governing board meetings;

H. quality improvement program records;

I. grievances and resolutions;

J. state board of pharmacy certificates as applicable;

K. incident log documenting reportable incidents as defined in 8.370.2 NMAC.

[8.370.22.35 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.370.22.36 CONTRACTED SERVICES: Services that are provided under contractual arrangement by an individual or entity and the home health agency, shall require a written contract between those individuals or entities and the agency, that specifies the following:

A. that patients shall be accepted for care only by the primary (admitting) home health agency;

B. the services to be furnished under the contract.

C. the necessity to conform to all applicable agency policies including personnel qualifications;

D. the responsibility for participating in developing plans of care;

E. the manner in which services will be controlled, coordinated and evaluated by the primary agency;

F. the procedures for submitting clinical notes, scheduling of visits and conducting periodic patient evaluation;

G. the procedures for payment for services furnished under the contract.

[8.370.22.36 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.370.22.37 STAFF RECORDS: Each agency licensed pursuant to these regulations shall maintain a complete record on file for each staff member and for all volunteers with in-home contact or working more than half-time. Staff records shall be made readily available for review upon request of the HCA. Staff records must contain at least the following:

A. name;

B. address;

C. position for which employed;

D. date of employment;

E. health certificate for all staff having contact with patient/clients stating that the employee is free from tuberculosis in a transmissible form as recommended by the centers for disease control and prevention;

F. a copy or proof of the current license, registration or certificate for each staff member for whom a license, registration, or certification is required by the state of New Mexico.

[8.370.22.37 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.370.22.38 POLICIES AND PROCEDURES: Each agency licensed pursuant to these regulations shall have written policies and procedures for at least the following:

A. scope of services offered;

B. provision of services through arrangement or contract with individuals or agencies;

C. admission and discharge;

D. written job descriptions for all categories of personnel;

E. personnel policies;

F. staff training;

G. emergency and after normal business hour care policies/procedures;

H. preparation, safeguarding, and release of information from patient/client records;

I. quality improvement program;

J. complaints and grievances, including their timely resolution.

[8.370.22.38 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.370.22.39 QUALITY IMPROVEMENT: Each agency shall establish an on-going quality improvement program to ensure an adequate and effective operation. To be considered on-going, the quality improvement program shall document quarterly activity that addresses, but is not limited to:

A. Clinical care: Assessment of patient/client goals and outcomes, such as, diagnosis(es), plans of care, services provided, and standards of patient/client care.

B. Operational activities: Assessment of the total operation of the agency, such as, policies and procedures, statistical data (i.e., admissions, discharges, total visits by discipline, etc.), summary of quality improvement activities, summary of patient/client complaints and resolutions, and staff utilization.

C. Quality improvement action plan: Written responses to address existing or potential problems that have been identified.

D. Documentation of activities: The results of the quality improvement activities shall be compiled annually in report format and formally reviewed and approved by the governing body of the home health agency. No more than one year shall lapse between evaluations of the same part.

E. The HCA may, at its sole discretion, request quarterly activity summaries of an agency's on-going quality improvement activities or may direct the agency to conduct specific quality improvement studies.

[8.370.22.39 NMAC - N/E, 5/26/2026; N, xx/xx/2026].39 NMAC, xx/xx/2026]

8.370.22.40 COMPLAINTS: The home health agency shall investigate complaints made by a patient/client, caregiver, or guardian regarding treatment or care, or regarding the lack of respect for the patient/client's property and shall document both the existence of the complaint and the resolution of the complaint. The agency's investigation of a complaint(s) shall be initiated within 24 hours or the next business day if the complaint is received on the weekend.

[8.370.22.40 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.370.22.41 REPORTING OF INCIDENTS:

A. The facility shall ensure that all suspected cases or known incidents of resident abuse, neglect or exploitation are reported in accordance with 8.370.9 NMAC.

(1) The facility shall also report any incident or unusual occurrence which has or could threaten the health, safety, or welfare of the residents and staff to the HCA intake by utilizing the most current online reporting system, fax, or email within 24 hours or by the next business day, if the incident occurs on a weekend or a holiday.

(2) The facility shall not delay submitting an incident report while an internal investigation is conducted.

B. The facility is responsible for conducting and documenting the investigation of all incidents within five working days and shall submit a copy of the investigation report to the HCA. A copy of the report and the documentation, including the date and time that it was submitted to the HCA , shall be maintained on file at the facility. The investigation shall include the following:

(1) a narrative description of the incident;

(2) the result of the facility's investigation recorded on the state approved incident report form for the current year, pursuant to 8.370.9 NMAC; and

(3) plans for further actions in response to the incident.

[8.370.22.41 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.370.22.42 RELATED REGULATIONS AND CODES: Facilities subject to these regulations are also subject to other regulations, codes and standards as the same may from time to time be amended as follows including:

A. Health facility licensure fees and procedures, New Mexico health care authority; 8.370.3 NMAC.

B. Health facility sanctions and civil monetary penalties, New Mexico health care authority, 8.370.4 NMAC.

C. Adjudicatory hearings for licensed facilities, New Mexico health care authority; 8.370.2 NMAC.

D. Employee abuse registry, New Mexico health care authority; 8.370.8 NMAC.

E. Caregivers criminal history screening requirements, New Mexico healthcare authority; 8.370.5 NMAC.

F. Incident reporting, intake, processing and training requirements, New Mexico health care authority, 8.370.9 NMAC.

[8.370.22.42 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

HISTORY OF 8.370.22 NMAC: [RESERVED]

History of Repealed Material: 8.370.22 NMAC, Requirements for Home Health Agencies filed 6/13/2024 Repealed effective xx/xx/2026.

Other: 8.370.22 NMAC, Requirements for Home Health Agencies filed 6/13/2024 Replaced by 8.370.22 NMAC, Requirements for Home Health Agencies effective xx/xx/2026.