

**IMPORTANT:** Use this form (REGS-1-E) to submit **emergency regulations** to the Legislative Regulation Review Committee. For *permanent regulations*, use form REGS-1 instead. For *non-substantive technical amendments and repeals* proposed without prior notice or hearing as permitted by subsection (g) of CGS 4-168, as amended by PA 13-247 and PA 13-274, use form REGS-1-T instead.

*Please read the additional instructions on the back of the last page (Certification Page) before completing this form. Failure to comply with the instructions may cause disapproval of proposed emergency regulations.*

State of Connecticut  
**EMERGENCY REGULATION**  
of the

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NAME OF AGENCY:  
Connecticut Department of Public Health

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**Concerning**

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SUBJECT MATTER OF REGULATION:  
Licensure of Home Health Care Agencies waiver requests

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Section 1. Section 19-13-D66 of the Regulation of Connecticut State Agencies is amended to read as follows:

Definitions. As used in Sections 19-13-D66 to 19-13-D79 inclusive:

- (a) “Agency” means home health care agency as defined in Section 19a-490(a) of the Connecticut General Statutes;
- (b) “Central Office” means the agency office responsible and accountable for all agency operations in this state;
- (c) “Clinical experience” means employment in providing patient services in a health care setting;
- (d) “Clinical quality measure” means tools that assist in measuring and tracking the quality of healthcare provided by the agency;
- [(d)] (e) “Commissioner” means the commissioner of health services, or his/her representative;
- (f) “Continuous Skilled Nursing” means a total of two or more hours of home health nursing services provided in a twenty-four hour period by a home health care agency licensed in accordance with Regulations of Connecticut State Agencies;
- [(e)] (g) “Contracted services” or “services under arrangement” means services provided by the agency which are subject to a written agreement with an individual, another agency or another facility;
- [(f)] (h) “Contractor” means any organization, individual or home health care agency that provides services to patients of a primary agency as defined in paragraph (cc) of Section 19-13-D66 of these regulations;
- [(g)] (i) “Chiropractor” means a person possessing a license to practice chiropractic in this state;
- [(h)] (j) “Curriculum” means the plan of classroom and clinical instructions for training and skills assessment as a homemaker-home health aide;
- [(i)] (k) “Dentist” means a person licensed to practice dentistry in this state;
- [(j)] (l) “Department” means the Connecticut Department of Health Services;
- [(k)] (m) “Direct service staff” means individuals employed by the agency or under contract whose primary responsibility is delivery of care to patients;

- [(l)] (n) “Evening or nighttime service” means service provided between the hours of 5 p.m. and 8 a.m.;
- [(m)] (o) “Full-time” means employed and on duty a minimum of thirty-five (35) hours per workweek on a regular basis;
- [(n)] (p) “Full-time equivalent” means the total weekly hours of work of all persons in each category of direct service staff divided by the number of hours in the agency’s standard workweek. Full-time equivalents are computed for each category of direct service staff;
- [(o)] (q) “Holiday service” means service provided on the days specified in the agency’s official personnel policies as holidays;
- [(p)] (r) “Homemaker-home health aide” means an unlicensed person who has successfully completed a training and competency evaluation program for the preparation of homemaker-home health aides approved by the department;
- [(q)] (s) “Licensed practical nurse” means a person with a license to practice practical nursing in this state;
- [(r)] (t) “Non-visiting program” means services of the agency provided in sites other than a patient’s home;
- [(s)] (u) “Occupational therapist” means a person with a license to practice occupational therapy in this state;
- [(t)] (v) “Occupational therapy assistant” means a person who has successfully completed a training program approved by the American Occupational Therapy Association and is currently certified by the said association;
- [(u)] (w) “Patient care services” mean agency activities carried out by agency staff for or on behalf of a patient. Such services include, but are not limited to, receipt of referral for service, admission to service, assignment of personnel, direct patient care, communication/coordination with source of medical care and development/maintenance of patient’s clinical record;
- [(v)] (x) “Patient service office” means one or more separate and distinct offices which provide patient care services and are included under the agency’s license. This office shall comply with the regulations of Connecticut State Agencies, Section 19-13-D77;
- [(w)] (y) “Peer consultation” means a process by which professionals of the same discipline, who meet supervisory qualifications, meet regularly to review patient management, share expertise and take responsibility for their own and each other’s professional development and maintenance of standards of service;
- [(x)] (z) “Permanent part-time” means employed and on duty a minimum of twenty (20) hours per workweek on a regular basis;
- [(y)] (aa) “Pharmacist” means a person licensed to practice pharmacy in this state;
- [(z)] (bb) “Physical therapy assistant” means a person who has successfully completed an education program accredited by the American Physical Therapy Association;
- [(aa)] (cc) “Physician” means a doctor of medicine or osteopathy licensed either in Connecticut or in a state which borders Connecticut;
- [(bb)] (dd) “Podiatrist” means a person licensed to practice podiatry in this state;
- [(cc)] (ee) “Primary agency” means a home health care agency which hires or pays for the services of other organizations, agencies or individuals who provide care or services to its patients;
- [(dd)] (ff) “Primary care nurse” means a registered nurse licensed to practice nursing in this state who is the agency employee assigned primary responsibility for planning and implementing the patient’s care;
- [(ee)] (gg) “Public health nurse” means a graduate of a baccalaureate degree program in nursing approved by the National League for Nursing for preparation in public health nursing;
- [(ff)] (hh) “Quality care” means that the patients receive clinically competent care which meets professional standards, are supported and directed in a planned pattern toward mutually defined outcomes, achieve maximum recovery consistent with individual potential and life style, obtain

coordinated service through each level of care and are taught self-management and preventive health measures;

[(gg)] (ii) “Registered nurse” means a person with a license to practice as a registered nurse in this state;

[(hh)] (jj) “Registered physical therapist” means a person with a license to practice physical therapy in this state;

[(ii)] (kk) “Related community health program” means an organized program which provides health services to persons in a community setting;

[(jj)] (ll) “Representative” means a designated member of the patient’s family, or person legally designated to act for the patient in the exercise of the patient’s rights as contained in Sections 19-13-D66 to 19-13-D79 of the regulations of Connecticut State Agencies.

[(kk)] (mm) “Social work assistant” means a person who holds a baccalaureate degree in social work with at least one (1) year of social work experience; or a baccalaureate degree in a field related to social work with at least two (2) years of social work experience;

[(ll)] (nn) “Social worker” means a graduate of a master’s degree program in social work accredited by the Council on Social Work Education;

[(mm)] (oo) “Speech Pathologist” means a person with a license to practice speech pathology in this state;

[(nn)] (pp) “Subdivision” means a unit of a multifunction health care organization which is assigned the primary authority and responsibility for the agency operations. A subdivision shall independently meet the regulations and standards for licensure and shall be independently licensed as a home health care agency;

[(oo)] (qq) “Therapy services” means physical therapy, occupational therapy, or speech pathology services;

[(pp)] (rr) “Weekend service” means services provided on Saturday or Sunday.

Section 2. Subsection (e) of section 19-13-D68 of the Regulation of Connecticut State Agencies is amended to read as follows:

(e) Supervisor of Clinical Services;

(1) An agency shall employ one full-time supervisor of clinical services for each fifteen (15), or less, full-time or full-time equivalent professional direct service staff.

(2) The supervisor of clinical services shall have primary authority and responsibility for maintaining the quality of clinical services.

(3) The supervisor’s responsibilities include, but are not limited to:

(A) Coordination and management of all services rendered to patients and families by direct service staff under his/her supervision;

(B) Supervision of assigned nursing personnel in the delivery of nursing services to patients and families;

(C) Direct evaluation of the clinical competence of assigned nursing personnel and participation with appropriate supervisory staff in the evaluation of other direct service staff;

(D) Participation in or development of all agency objectives, standards of care, policies and procedures affecting clinical services;

(E) Participation in direct services staff recruitment, selection, orientation and inservice education;

(F) Participation in program planning, budgeting and evaluation activities related to the clinical services of the agency.

(4) The supervisor of clinical services may also serve as the administrator in agencies with six (6) or less full-time or full-time equivalent professional direct service staff.

(5) Any absence of the supervisor of clinical services for longer than one month must be reported to the commissioner. A registered nurse who has at least two (2) years’ experience in a home health care

agency, shall be designated, in writing, to act during any absence of the supervisor of clinical services whenever patient care personnel are serving patients.

(6) Special requirement, agencies that provide continuous skilled nursing care

(A) Waiver.

(i) The commissioner or the commissioner's designee, in accordance with the general purpose and intent of this regulation, may waive provisions of subdivision (1) of this section if the commissioner determines that such waiver would not endanger the life, safety or health of any patient. The commissioner shall have the power to impose conditions which assure the health, safety and welfare of patients upon the grant of such waiver, or to revoke such waiver upon a finding that the health, safety, or welfare of any patient has been jeopardized.

(ii) Any agency requesting a waiver shall apply in writing to the department.

Such application shall include:

(I) The specific regulations for which the waiver is requested;

(II) Reasons for requesting a waiver, including a statement of the type and degree of hardship that would result to the agency upon enforcement of the regulations;

(III) The specific relief requested;

(IV) Alternative staffing plan as well as policies or procedures proposed; and

(V) Any documentation which supports the application for waiver.

(iii) In consideration of any application for waiver, the commissioner or the commissioner's designee may consider the following:

(I) The level of care provided; and

(II) The impact of a waiver on the care provided;

(iv) The agency shall provide any additional information requested by the commissioner or the commissioner's designee as part of the determination of the application for waiver.

(v) Should the commissioner or the commissioner's designee approve such waiver, the agency shall monitor, collect, and report to the department quarterly clinical quality measures as required in the approval to ensure that quality care is provided to patients that require continuous skilled nursing care. Clinical quality measures shall include the following measures in addition to those set forth in the approval:

(I) Abuse and neglect;

(II) Patient satisfaction survey measures;

(III) Incidence of pressure ulcers; and

(IV) Patient re-hospitalization.

(vi) The agency shall provide the department with unrestricted access to the quality measure data collection as provided in clause (v) of this subparagraph.

Documentation of quality measures shall be kept on file for a period of five years.

(vii) Quality measure data monitored and collected as provided in clause (v) of this subparagraph shall be analyzed and incorporated into the agency's quality assurance and performance activities.

## **Statement of Purpose**

**Statement of Purpose:** (A) The purpose of the regulations is to establish a definition of continuous skilled nursing and clinical quality measures and establishes authority for the commissioner to waive the provisions of 19-13-D68 (e)(1) in home health agency if the commissioner determines that such waiver would not endanger the life, safety or health of any patient. (B) The regulations require these agencies to apply for such waiver in writing to the agency and include reasons for such hardship along with monitoring and data collection of clinical quality measures to ensure that quality care is provided to patients that require continuous skilled nursing care. Proposed language is consistent with current waiver language used by other facility types. (C) The proposed regulations revises section 19-13-D66 to include definitions of continuous skilled nursing and clinical quality measures and adds language into section 19-13-D68 to allow the Department to waive the supervisor of clinical services to staff ratio for home health care agencies providing continuous skilled nursing care.

## CERTIFICATION

*This certification statement must be completed in full and signed by the agency head.*

**I hereby certify that the above Emergency Regulation(s)**

1) is/are adopted by this agency (*check one, and complete as applicable*)

- without prior notice or hearing**  
 **upon the following described abbreviated notice and hearing \_\_\_\_\_,**

2) pursuant to the following authority(ies): (*complete all that apply*)

a. **Connecticut General Statutes section(s)** 19a-495,

b. **Public Act Number(s)** \_\_\_\_\_.

*Provide public act number(s) if the authorizing act has not yet been codified in the Connecticut General Statutes.*

**I further certify that copies of (a) this agency's finding of emergency and (b) the governor's approval of said finding, are appended to said regulation(s),**

3) and that said regulation(s) is/are **EFFECTIVE** (*check one, and complete as applicable*)

When electronically submitted to the Secretary of the State

**OR**  on January 22, 2013 (*insert a date less than 20 days after submission*)

<b>4) SIGNED</b> ( <i>Head of Board, Agency or Commission</i> )	OFFICIAL TITLE, DULY AUTHORIZED	DATE
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*(For Regulation Review Committee Use ONLY)*

APPROVED  in WHOLE or WITH  technical corrections  deletions  substitute pages

DEEMED APPROVED, *pursuant CGS 4-168(f)(2), as amended.*

Rejected without prejudice  Disapproved, *pursuant to CGS 4-168(f)(2), as amended.*

By the Legislative Regulation Review Committee in accordance with CGS Section 4-170, as amended	SIGNED ( <i>Administrator, Legislative Regulation Review Committee</i> )	DATE
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*(For Secretary of the State Use ONLY)*

In accordance with CGS Section 4-172, as amended by PA 13-247 and PA 13-274, one certified paper copy and one electronic copy with agency head certification statement submitted on the date(s) specified below.

DATE	SIGNED ( <i>Secretary of the State</i> )	BY
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**Date Posted to SOTS Regulations Website:**

**Effective date:**

**SOTS file stamp:**

## **GENERAL INSTRUCTIONS**

1. The original and one electronic copy (in Word format) of all **emergency regulations** must be presented to the Legislative Regulation Review Committee for its action. (See subsection (f) of CGS Section 4-168, as amended by PA 13-247, section 28, and PA 13-274, and see CGS Section 4-170.)
2. Each proposed regulation section must include the appropriate regulation section number and a section heading. (See CGS Section 4-172.)
3. New language added to an existing regulation must be in underlining or CAPITAL LETTERS, as determined by the Regulation Review Committee. (See CGS 4-170(b).)
4. Existing language to be deleted must be enclosed in [brackets]. (See CGS 4-170(b).)
5. A completely new regulation or a new section of an existing regulation must be preceded by the word "(NEW)" in capital letters. (See CGS Section 4-170(b).)
6. The proposed emergency regulation must include a statement of its purpose. (See CGS Section 4-168(f)(2).)
7. The *Certification Statement* portion of this form must be completed in full. (See more specific instructions below.)
8. Additional information regarding rules and procedures of the Legislative Regulation Review Committee can be found on the Committee's web site: <http://www.cga.ct.gov/rr/> .
9. A copy of the Legislative Commissioners' Regulations Drafting Manual is located on the LCO website at [http://www.cga.ct.gov/lco/pdfs/Regulations\\_Drafting\\_Manual.pdf](http://www.cga.ct.gov/lco/pdfs/Regulations_Drafting_Manual.pdf).

## **CERTIFICATION STATEMENT INSTRUCTIONS**

*(Numbers below correspond to the numbered sections of the Certification Statement page)*

1. Indicate whether the agency is proceeding to adopt the proposed emergency regulations without prior notice or hearing—as permitted by law—or whether the agency used an abbreviated notice and hearing process, also as permitted by law. If an abbreviated process was used, summarize briefly what it entailed.
2. **(a)** Indicate the specific legal authority that permits or requires adoption, amendment or repeal of the regulation. If the relevant public act has been codified in the most current biennial edition of the *Connecticut General Statutes*, indicate the relevant statute number(s) instead of the public act number. If the public act has not yet been codified, indicate the relevant public act number.  
  
**(b)** Insert between the statement of purpose page and the certification page, copies of the agency's finding of emergency **and** the governor's approval of said finding.
3. Subject to applicable constitutional or statutory provisions, emergency regulations adopted after July 1, 2013 are **effective immediately upon electronic submission to SOTS, or at a stated date less than 20 days thereafter**.  
  
As applicable, enter the specific effective date of the emergency regulation; or indicate that it is effective upon electronic submission to the Secretary at [regulations.sots@ct.gov](mailto:regulations.sots@ct.gov).
4. Present the original copy of the proposed emergency regulation to your agency commissioner for signature.