

COUNTY OF ERIE

LOCAL LAW NO. 10

LOCAL LAW INTRO NO. 21

(Print 1) 1984

A LOCAL LAW regulating home health care services provided to county residents pursuant to contracts between the County of Erie and home health care agencies operating within Erie County.

BE IT ENACTED BY THE ERIE COUNTY LEGISLATURE AS FOLLOWS

Section 1. Scope

This local law imposes interim staffing, training and experience requirements on providers of home health care services who seek to contract with the County of Erie pending establishment of permanent standards by the state of New York. It provides for procedures by which the County of Erie shall monitor its contracts, and further provides the wherewithall 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 it is shown that such person has met the minimum criteria as established in this local law.

§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 is engaged in providing to individuals, in a place or residence used as an individual's home, one or more of the following services directly:

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

but shall not include any person or organization which exclusively provides maid service or traditional domestic services.

b. "Certified Home Health Care Agency" shall mean a home health care agency which possesses a valid certificate of approval issued pursuant to the provisions of article 36 of the New York State Public Health Law, or a residential health care facility possessing a valid operating certificate issued under article 28 of the New York State Public Health Law which is authorized under article 36 of said law to provide a long term home health

care program. Such an 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 Care Provider" shall mean a home health care agency that does not possess a valid certificate of approval issued pursuant to the provisions of article 36 of the New York State Public Health Law. Such an agency is not qualified to participate as a home health agency under the provisions of title XVIII of the federal Social Security Act.

d. "Home Health Aide Services" shall mean assistance with simple, health care tasks, personal hygiene, light housekeeping essential to a client's health and other related supportive services. Home health aide services shall be performed by a home health aide.

e. "Personal Care Services" shall mean assistance with personal hygiene, dressing, feeding, and household tasks essential to a patient's health. Personal care services may be performed by a home health aide or a personal care aide.

f. "Homemaker Services" shall mean assistance and instruction in managing and maintaining a household, dressing, feeding and incidental household tasks. Homemaker services may be performed by a homemaker, personal care aide or home health aide.

g. "Housekeeper/Chore Services" shall mean light work or household tasks which are necessary to maintain a safe and healthy environment. Housekeeper/chore services shall be performed by a housekeeper/chore aide.

h. "Home Care Services" shall mean services provided by a certified home health agency and a home care agency to individuals and 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 and medical social services.

§3. Minimum Standards for Operation of a
Home Health Care Agency

No home health care agency shall be entitled to contract with the County of Erie unless it meets the minimum standards established herein and provides equal quality of services to all clients regardless of the source of funding for such home health care services.

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 and who shall possess a minimum of a Bachelor's Degree in Business Administration, Health, Social Services, or a

related field and have a minimum of two years prior experience in a managerial or supervisory capacity in the health care field.

2. Director of Nursing. A home health care agency shall have in its employ a full-time Director of Nursing who possesses a New York State RN license and a minimum of a Bachelor's Degree in Nursing and who has a minimum of three (3) years prior experience including one (1) year of prior experience working in the home health care field and at least one (1) year prior experience in a supervisory capacity in the health care field.

The primary functions of the Director of Nursing shall include but not be limited to planning, organizing, directing and coordinating with respect to client services and establishing and evaluating quality assurance controls for the agency.

3. Nursing Supervisor. A home health care agency shall have in its employ at least one full-time equivalent nursing supervisor for every one hundred and fifty (150) active cases. The nursing supervisor shall possess a New York State RN license and have at least two (2) years prior experience in the health care field including one (1) year experience in a supervisory capacity.

The primary functions of the Nursing Supervisor shall include but not be limited to supervising and

evaluating field personnel, monitoring care plans and services provided to ensure high quality service delivery, providing on-the-job training and reviewing service eligibility.

4. Personnel Screening. A home health care agency shall have a program for screening the acceptability of applicants for employment. The screening program shall include, but not be limited to, the following requirements:

(i) each applicant for a position 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 two (2) references, including at least one (1) reference from a previous employer, a former teacher, clergyman or other professional;

(iv) the employing agency shall conduct reference checks on all applicants.

5. Photo Identification Cards. A 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 shall be returned upon termination of employment.

6. Employee Health Screening. A home health care agency shall be responsible for complying with the minimum criteria governing physical examinations, immunization and testing for employees and applicants for employment as established by the rules, regulations and directives 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 providing physical examinations including immunization and other required testing and also for documenting the results of said examination and testing.

7. Supervision of Agency Personnel. The home health care agency shall have a program for providing administrative supervision to all agency personnel who come in contact with clients. The home health care agency shall also provide professional supervision to its home health care aides, personal care aides and/or homemaker aides when such supervision is not contractually the responsibility of a certified home health agency, a long term health care program, or by the County of Erie or one of its contract agencies.

8. Personnel Records. The home health care

agency shall maintain personnel records for each person it employs who comes in contact with clients. The personnel record for each employee shall contain at least the following: (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 which was conducted by the home health care agency;

(ii) written documentation of the employee's references and the reference checks which were conducted on the employee by the employing home care agency;

(iii) the employee's physical examination and laboratory testing reports;

(iv) where applicable, satisfactory proof that the employee meets the basic training requirements as may be established by the County of Erie and New York State;

(v) where applicable, satisfactory proof that the employee meets the competency testing requirements as may be established by the County of Erie and New York State;

(vi) where applicable, evidence of current licensure;

(vii) where applicable, an in-service training log or other satisfactory proof that the employee meets the orientation, in-service and on-the-job training requirements as may be established by the County of Erie and

New York State;

(viii) copies of any complaints which have been filed against the employee and written information showing how such complaints were resolved;

(ix) copies of all job performance evaluations of the employee which have been conducted by the home health care agency.

9. Employee Orientation Manual. The home health care agency shall develop a written employee orientation manual which shall include provisions clearly explaining the agency's existing policies, procedures or requirements with respect to at least the following: (i) basic, in-service and on-the-job training;

(ii) descriptions and responsibilities for all positions utilized by the agency;

(iii) initial and periodic physical examinations and laboratory testing;

(iv) supervision and evaluation;

(v) services provided;

(vi) client admission and discharge policies;

(vii) client care, including medication administration; client treatment and care plans, client records;

(viii) client safety and emergency care,

including information on after-hours emergency care;

(ix) administrative record-keeping;

(x) client rights.

The manual and any revision thereto shall be distributed to all agency employees. The agency shall distribute the employee orientation manual to a new employee upon employment with the agency. The home health care agency shall be responsible for submitting a copy of its employee orientation manual and any revision thereto to the County of Erie.

10. Client's Home Care "Bill of Rights". A home health care agency shall have a written client's home care "bill of rights" which shall be distributed to each client or the client's representative at the start of services. The agency's client's home care "bill of rights" shall contain provisions covering at least the following: (i) a description of available services, unit charges, and billing mechanisms;

(ii) policy on uncompensated care;

(iii) criteria for admission to service and discharge from service;

(iv) 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;

(v) Client's or client representative's

responsibility for participation in the development and implementation of the home health care plan;

(vi) explanation of confidential treatment of all client information retained in the agency and the requirement for written consent for release of information to persons not otherwise authorized under law to receive it;

(vii) policy regarding client access to the clinical record;

(viii) explanation of grievance procedure and right to file grievances with the agency without discrimination of reprisal from the agency or its employees;

(ix) procedures for registering complaints with the County of Erie;

(x) right of the client to be notified as to whom will be providing services and their replacements thereafter;

(xi) right of the client to demand photo identification of agency personnel;

(xii) clients shall be informed as to the necessity of keeping the care plan posted in a conspicuous place in the home and notifying the home health care agency in the event their aide does not report to work.

The home health care agency shall be responsible for submitting a copy of its client's home care "Bill of Rights" and any revision thereto to the County of Erie.

11. Professional Advisory Committee. (i) The home health care agency shall have a professional advisory committee which regularly reviews and advises on agency policies covering professional issues, including but not limited to: appropriateness of the scope of services offered; quality of services provided; admission, discharge and client care policies and procedures; adequacy of employee orientation and basic on-the-job and in-service training programming; and appropriateness of professional supervision. Dated written minutes of each meeting of the agency's professional advisory committee shall be maintained and made available to a duly authorized representative of the County of Erie upon request.

(ii) The professional advisory committee shall be composed of residents of Erie County but shall not include any officer or employee of the County of Erie who in the regular course of duties exercises discretion in the administration of any home health care program. Membership on the professional advisory committee shall include but not be limited to the following: One (1) physician, one (1) professional nurse, one (1) consumer representative and an appropriate number of representatives from other professional disciplines which are involved in the delivery of home health care services.

12. Insurance Coverage. A home health care

agency shall procure blanket bond insurance, third party fiduciary coverage, general and automobile liability insurance, medical malpractice insurance and worker's compensation insurance in such form and amounts as may be prescribed by the Erie County Director of Insurance. Such insurance shall include the County of Erie as a named insured, and the agency shall provide the County with certificates of insurance prior to entering into any contract with the 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 overall job performance shall be developed in accordance with such training and employee evaluation standards as may be established by the County of Erie and the appropriate department of New York State.

2. Approval of Training Plans Required. A home health agency's training plans, including its plans for basic training, in-service training, on-the-job training and evaluation of overall job performance shall have been approved by (i) the New York State Department of Social Services if the agency is a home health care provider; or (ii) the New York State Department of Health if the agency

is a certified home health agency. In addition, within one year after the adoption of this local law, a home health care agency's training plans for basic training, in-service training, on-the-job training and evaluation of overall job performance shall be approved by the County of Erie.

3. Amendments to Approved Training Plans. Prior to (i) modifying an approved basic training method by changing a testing model or a standard of competency; (ii) changing the content, length or types of instructors involved in an approved basic training program; or (iii) altering any training documentation methods used in an approved basic training program, a home health care agency shall obtain the approval of the New York State Department of Social Services, if the agency is a home health care provider; or the New York State Department of Health, if the agency is a certified home health agency. Once the County of Erie has approved a home health care agency's training plans, any of the above-mentioned modifications to an approved basic training program shall also be approved by the County of Erie.

4. Orientation. Immediately following the County of Erie's approval of a home health care agency's training plans, a home health care agency shall directly provide a three hour orientation session to each new employee hired to provide home health aide, personal care, homemaker or

housekeeper/chore services. This three hour orientation session shall be held in addition to any required basic training. The employee orientation session shall be held upon 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 also serve as a forum for reviewing the employee orientation manual with new employees.

5. Basic Training Requirements. a. A home health agency shall be responsible for the basic training of all individuals, including both full-time and part-time employees, hired by the agency to perform home health aid, personal care, homemaker or housekeeper/chore services. Basic training may be provided by the employing home health care agency or an independent, third party institution whose basic training programs have been approved by the County of Erie and the appropriate departments of New York State.

b. A home health care agency shall require all employees hired to perform home health aide services to successfully complete seventy hours of basic training.

c. Immediately following the County of Erie's approval of a home health care agency's training plans, a home health care agency shall require all employees who

perform personal care services or homemaker services, and who are not exempt from basic training in accordance with the competency testing standards as may be established by the County of Erie and New York State, to successfully complete fifty hours of basic training.

d. Immediately following the County of Erie's approval of a home health care agency's training plans, a home health care agency shall require all employees who perform housekeeper/chore services to successfully complete seven hours of basic training.

e. Immediately following the County of Erie's approval of a home health care agency's training plans, a home health care agency shall not assign any employee to a home health aide, personal care, homemaker or housekeeper/chore case prior to the employee's successful completion of the required basic training.

6. In-Service Training. a. A home health care agency shall require all employees who perform home health aide services to complete a minimum of six hours in-service training semi-annually. All employees of a home health agency who perform personal care services or homemaker services shall complete a minimum of three hours in-service training semi-annually. In addition, immediately following the County of Erie's approval of a home health care agency's training plans, a home health care agency shall require its

housekeeper/chore aides to complete a minimum of three hours in-service training semi-annually. Semi-annual is defined as two times a year or every six months from the date of employment.

b. In-service training may be furnished directly by the employing home health care agency or an independent third party institution whose in-service training programs have been approved by the County of Erie and the appropriate department of the State of New York.

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.

7. On-the-job Training. a. Immediately following the County of Erie's approval of a home health care agency's training plans, a home health care agency shall require all employees who provide home health aide, personal care, homemaker or housekeeper/chore services, including part-time employees, 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. 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.

8. 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, including part-time employees. An evaluation of each employee's overall job performance shall be completed at least annually.

b. Employee evaluations shall be completed by a registered professional nurse employed by a home health care agency to provide nursing and/or administrative supervision.

c. To complete performance evaluations, a home health care agency may review and utilize information about the employee's performance on specific cases as reflected in nursing supervisory reports. Information from training and personnel records may also be used. An agency may observe an employee's performance on an active case, but this is not required.

9. 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. Immediately following the County of Erie's approval of a home health care agency's training plans, 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 may be established by the County of Erie and the appropriate department of New York State.

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 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 exams and quizzes; (ii) oral quizzes; (iii) practical demonstrations of skills; (iv) instructor observations of overall performance, attitude and work habits; and (v) preparation of assignments or home study materials shall also be documented and maintained.

f. A home health care agency shall make all orientation, in-service and basic training attendance records and all scored and dated basic training testing instruments available to the County of Erie for monitoring and audit purposes.

10. Use of Competency Testing. a. A home health agency may use competency testing methodologies for determining exemption of personal care aides and homemaker aides from the required basic training. A home health agency shall not use competency testing as a substitute for all or any portion of the basic training required for employees performing home health aide services or housekeeper/chore services, unless such person has successfully completed a course of study which qualifies

such person to take New York state licensing examinations for registered nurses.

b. A home health care agency's competency testing methodologies shall be developed in accordance with the uniform competency testing standards governing the qualifications of individuals who may be tested, testing methods, criteria for competency testing instruments, competency standards and competency testing documentation as may be established by the County of Erie and the appropriate department of New York State.

c. A home health care agency's competency testing methodologies and procedures for the documentation of an employee's successful completion of competency testing shall have been approved by (i) the New York State Department of Social Services, if the agency is a home health care provider; or (ii) the New York State Department of Health if the agency is a certified home health agency. In addition, within one year after the adoption of this local law, a home health care agency's competency testing methodologies and procedures for the documentation of an employee's successful completion of competency testing shall be approved by the County of Erie.

d. A home health care agency shall obtain the approval (i) of the New York State Department of Social Services, if the agency is a home health care provider; or

(ii) of the New York State Department of Health, if the agency is a certified home health agency prior to (i) adding a competency testing methodology; (ii) modifying the approved standards governing the qualifications of individuals who may be tested; (iii) modifying an approved competency methodology by changing a testing method or standard of competency; or (iv) altering any competency testing documentation methods. Once a home health care agency's competency testing methodologies and procedures have been approved by the County of Erie, any modifications to an approved competency testing plan shall also be approved by the County of Erie.

11. 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 basic training in accordance with the uniform competency testing standards as may be established by the County of Erie and the State of New York.

b. Commencing one year after the adoption of this local law, a home health care agency shall not assign any employee to a personal care or homemaker case unless the employee's related experience or training and competency testing results has been documented and the employee's participation in any remedial basic training has been

successfully completed and documented.

c. 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. Immediately following the County of Erie's approval of a home health care agency's competency testing methodologies and procedures, the competency testing certificate issued by a home health care agency shall conform to the uniform competency testing certificate regulations pertaining to content, size and format as may be established by the County of Erie. 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 exempted.

d. Immediately following the County of Erie's approval of a home health care agency's training plans, 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.

e. 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.

12. Training Documentation. A home health care agency shall maintain documentation of each employee's orientation, basic training, in-service training, on-the-job training and job performance evaluations performed pursuant to this section.

13. Other Requirements. A home health care agency which provides home care services through a contractual purchase of services shall insure that these services are provided by qualified personnel who meet the applicable orientation, basic training, in-service training and on-the-job training criteria as may be established by the appropriate department of New York State and the County of Erie.

c. Provision of Services

1. Services Provided. a. A home health care agency shall provide one or more of the following services directly to persons at home: (i) professional nursing

services; (ii) home health aide services; (iii) personal care services; (iv) homemaker services; (v) housekeeping/ chore services; (vi) physical, occupational or speech therapy services; (vii) medical social services; (viii) nutritional services.

2. Service Requirements. A home health care agency shall: (i) be able to provide services twenty-four hours per day, seven days a week, including holidays; (ii) have a written plan which ensures essential service and backup when the usual worker is not available; (iii) have written procedures to be followed by workers and other staff in case of an emergency.

3. Physician's Orders. Except in the case of a certified home health agency subject to the rules, regulations and directives of the New York State Department of Health, or when services provided by a home health care agency are subject to the rules, regulations and directives of the State Medicaid program, a home care provider which provides nursing supervision with respect to the care of a non-Medicaid client who is receiving in-home professional nursing services, therapy services, nutritional services or medical social services shall be responsible for ensuring:

(i) that such services are provided in accordance with the orders prescribed by the client's physician;

(ii) that the physician's orders are signed

and are based upon such client's current medical status, as determined by a medical examination within thirty days of the request for such home care;

(iii) that medical orders are reviewed by the client's physician in consultation with professional personnel at such intervals as the severity of the client's illness requires but in any instance, at least once every sixty days;

(iv) that such client's physician is notified when there is significant change in the client's condition, and is consulted to approve additions or modifications to the physician's original orders;

(v) that when such client is transferred to a hospital and readmitted to the agency, the client's medical orders are reviewed by the client's physician and new orders are issued, if necessary.

4. Care Plans. i. A certified home health agency shall be responsible for complying with the minimum criteria with respect to client assessment reviews and client care plans which are established by the rules, regulations and directives of the New York State Department of Health. A home health care agency which provides services to a Medicaid client shall be responsible for complying with the minimum criteria with respect to client assessment reviews and client care plans which are

established by the rules, regulations and directives of the New York State Department of Social Services.

ii. A home care provider 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, therapy services, nutritional services and medical social services when the assessment function for that client has not been delegated to a certified home health agency, or to the County of Erie or one of its contract agencies.

Said assessment shall include a review of the physician's 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 said agency shall, at the minimum, include: an outline of the service needs of the client including they type of services needed, frequency and duration of services, and a regimen that will be followed in supervising the care provided to the client.

iii. Any client care plan which is developed by a home care provider 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 home care provider shall update the

client's care plan as often as the client's condition indicates, but at least once every ninety days and shall maintain such care plan as a permanent part of the client record.

iv. A certified home health agency or home care provider 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 i. A home health care agency shall establish and maintain a record for each client it serves. The record, at the minimum, shall contain appropriate identifying information concerning the client; conditions or reasons for which care is offered; a description of services provided to the client; the written observations or progress notes of all provider agency employees having contact with the client; true copies of all client satisfaction questionnaires which were forwarded to the agency by the client or by the client's representative; and written evidence of any complaints or grievances which a client filed with the home health care agency.

ii. When a home care provider performs a nursing assessment pursuant to subdivision 4 of this subsection, the client record shall also include: any current physician

orders; a current written nursing assessment; notations indicating that all physician orders, if any, for that client were reviewed by the client's physician as required by subdivision 3 of this subsection, with evidence of any revision of physician orders; and notations indicating that the plan of care for that client was reviewed by professional agency staff, with evidence of any revision of the care plan.

iii. A certified home health agency 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 directives of the New York State Department of Health.

iv. Each client's record shall be kept on file in the home health care agency office for at least seven years from the date of discharge from the home health care agency or for such longer period as may be required by State regulation.

§4. Contract Requirements and Procedures

a. The County of Erie shall contract with as many home health care agencies as it deems necessary.

b. The County of Erie shall contract with only 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. Notwithstanding the foregoing, any home health care agency which is under contract with the county on the date of enactment of this local law and: (i) meets all staffing and training requirements promulgated pursuant to this local law; and (ii) has heretofore performed its contract to the satisfaction of the commissioner of social services, shall not be excluded from further contractual relations with the county for failure to provide services within the county for at least a two year period. In addition, this local law shall not 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 forth at section three of this local law where the home health care agency is under contract with the county of Erie on the effective date of this local law and such administrator/executive director or director of nursing was regularly employed by such home health care agency in that same position prior to the effective date of this local law.

c. Before contracting with any home health care agency for home care related services, a department or administrative unit of the County of Erie shall:

(i) establish and complete a checklist to assure itself the home health care agency has met each of the requirements in

section 3 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 3 above;

(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 backup who will be available to answer home health care questions on a regular basis.

b. During the term of any contract entered into between a home health care agency to furnish home care related services, a County department or administrative unit shall: (1) establish and carry out a monitoring system to assure continuing compliance with all State rules, regulations, administrative directives and the requirements contained in Section 3 of this local law;

(ii) furnish to contractors, on a continuous and regular basis any and all amendments to rules, regulations and administrative directives as they are issued;

(iii) when appropriate, furnish nursing supervision both in the area of orientation and ongoing supervision as required by the rules, regulations and administrative directives of the State Department of Social Services;

(iv) shall forward a client's care plan worksheet to the client or to the appropriate nursing personnel of the home health care agency prior to or upon the initiation of home health care services;

(v) advise eligible recipients of the Medical Assistance Program of their right to choose the provider agency of their choice;

(vi) to the extent 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;

(vii) at least once annually, conduct an on-site visit to the office facilities of the contracting home health care agency to observe the procedures used by the agency for the implementation of the administrative, training and service requirements of Section 3 above.

§5. Penalties

In the event of a finding of non-compliance with this local law, the County shall have the right to:

- (i) order immediate compliance
- (ii) suspend client referrals
- (iii) commence formal proceedings to terminate services;
- (iv) take such other immediate or temporary action as under the circumstances seems appropriate for maintenance of client service.

§6. Coordination

The Erie County Commissioner of Social Services shall be responsible for the promulgation and establishment of all rules and regulations under this local law. 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.

§7. Advisory Board

In recognition of the fact that the quality of the home care delivery system is dependent upon maintaining lines of communication between government agencies, health care and social services professionals and the public at large, an advisory board is hereby established under the direction of the County Executive to continually evaluate the in-home health delivery system in Erie County. The advisory board shall consist of nine members including the County Commissioner of Social Services, the County

Commissioner of Health, the County Commissioner of Senior Services, three individuals appointed by the County Executive and three individuals appointed by the Chairman of the Erie County Legislature. The appointments of the County Executive and Chairman of the County Legislature shall include health care and social services professionals, home health care providers and community representatives. The advisory board shall be required to meet with representatives of home health care agencies at least twice annually.

§8. Implementation of Training Standards

No later than one hundred eighty days after the enactment of this local law, the Commissioner of Social Services shall establish and distribute to each home health care agency under contract with the County of Erie: (i) uniform standards governing the basic training to be provided to each of the following types of providers; home health aides; personal care aides; homemaker aides; and housekeeper/chore aides. For each provider category, the County's basic training standards shall describe the minimum requirements for: the total length of basic training, subject areas to be covered; content of each subject area; hours or percentages of time to be allotted to each subject area; the type of instruction method, (ex., lecture, demonstration or supervised practice), to be used in each

subject area; testing methods and criteria for evaluating a trainee's competence in each subject area and for determining a trainee's successful completion of basic training; attendance requirements; bibliographies of training materials; and professional direction of basic training including the numbers and types of staff to be used.

(ii) uniform standards governing the documentation of a trainee's successful completion of a home health aide, personal care, homemaker or housekeeper/chore aide basic training program. Such standards shall include a model certificate for documenting the successful completion of basic training and requirements pertaining to the size, format and content of the basic training certificate.

(iii) uniform standards governing the orientation, in-service training and on-the-job training to be provided to each of the following types of providers; home health aides; personal care aides; homemaker aides; and housekeeper/chore aides. For each provider category, these training standards shall describe the minimum requirements pertaining to the length, frequency and content of orientation and in-service training; frequency of on-the-job training; and criteria and methodologies for continued evaluation of the provider during in-service and on-the-job training.

(iv) uniform standards to be used by home health care agencies for completing and recording the annual evaluations of the overall job performance of all home health aides, personal care aides, homemakers aides and housekeeper/chore aides in the agency's employ.

(v) uniform standards governing the use of competency testing in lieu of all or a portion of the required basic training for personal care and homemaker aides. Such standards shall include minimum requirements pertaining to the qualifications of individuals who may be tested, testing methods, criteria for competency testing instruments and competency standards.

(vi) uniform standards governing a home health care agency's documentation of an employee's successful completion of competency testing. Such standards shall include a model competency testing certificate and requirements pertaining to the format and content of the competency testing certificate, including regulations requiring a home health care agency to record on the certificate which basic training program components have been exempted.

(vii) uniform standards governing the content and format of the basic training certificate which is issued to an individual who has completed only a portion of the required personal care or homemaker basic training due to a

competency testing exemption. Such standards shall require that this certificate include a description of which basic training components have been successfully completed.

(viii) policies and procedures for submittal of training plans and amendments to approved training programs to the County of Erie.

(ix) policies and procedures for submittal of competency testing methodologies and amendments to approved competency testing methodologies to the County of Erie.

§9. Current Contracts

Except as this local law provides a greater period for compliance, provider agencies under contract with the County of Erie upon the effective date herein shall have 60 days from receipt of notice of regulations by the commissioner of social services to be in compliance with this local law.

§10. Construction

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