

Summary of Scope	This Licensing Summary is a resource for current and prospective business owners who wish to understand the requirements for obtaining licensure for personal care services. This summary is intended to be inclusive of all requirements that are readily accessible and available. Requirements can change without notice. This Licensing Summary will be reviewed and updated regularly to provide the most up-to date information. This summary will not include any requirements related to Medicare, Medicaid services, or waiver programs. This summary is not intended to guide current and prospective business owners through every step of licensing, but to provide the necessary information for assistance with the process.
Agency(s)	New Mexico Department of Health (NMDOH)
Key Contacts	New Mexico Department of Health Health Facility Licensing and Certification Harold Runnels Building 1190 S. St. Francis Drive Santa Fe, NM 87505 Phone: 505-476-9025
Agency Website	New Mexico Department of Health https://www.nmhealth.org/about/dhi/hflc/
License (Homemaker & Companion Care)	The State of New Mexico requires an agency or organization providing one medically directed service to be a licensed home health agency (license type is “health facility”). Medically directed service includes “homemaker” services. See N.M. Admin. Code 7.28.2.9. (“An agency or organization meeting the following criteria must be licensed as a home health agency: Provides at least one medically directed service, such as, but not limited to: homemaker.”): New Mexico defines a “home maker” as 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. N.M. Admin. Code 7.28.2.7. Generally, homemaker services includes household chores that include housekeeping, meal planning and preparation, shopping assistance, and routine household activities for an elderly, handicapped, or convalescent individual. A homemaker does not provide hands-on personal care to a client.

IMPORTANT: Consideration or use of this document does not create an attorney-client relationship with Polsinelli. Similarly, this form document does not constitute the giving of legal advice, nor is it a substitute for specific legal advice as each employer must consider many different issues when drafting legal and other employment documents based on their unique circumstances and objectives. We accordingly strongly recommend that you contact a Polsinelli or other attorney to determine if this document, as drafted, is appropriate for your use.

New Mexico Personal Care Licensing Summary

License (Personal Care)	The State of New Mexico requires an agency or organization providing one medically directed service to be a licensed home health agency (license type is “health facility”). Medically directed service includes “personal care attendant” services. <i>See</i> N.M. Admin. Code 7.28.2.9. (“An agency or organization meeting the following criteria must be licensed as a home health agency: Provides at least one medically directed service, such as, but not limited to: personal care attendant.”) Personal care services are non-medical home care services which include personal care, assistance with daily living activities, meal preparation, housekeeping, and transportation. Such services are often vital for people to remain safe and comfortable in their homes. New Mexico defines “personal care attendant/provider” as a person who has successfully demonstrated competency to provide assistance with personal care such as bathing, grooming, bowel and bladder needs. N.M. Admin. Code 7.28.2.7.
License (Non- Medically Directed Services)	No license required. The State of New Mexico does not govern or regulate non-medically directed services. A 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 his/her practice or to any business, entity or organization providing non-medically directed services in a patient/client’s place of residence. N.M. Admin. Code 7.28.2.7. Medically directed services are defined as “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 physician, physician assistant, nurse practitioner or clinical nurse specialist at least annually.” N.M. Admin. Code 7.28.2.7. We recommend contacting the New Mexico Department of Health regarding the scope of allowed non-medically directed services and applicable requirements.
Certificate of Need	NA
Moratorium	NA
License Costs	Initial Licensure Fee: \$300.00 Renewal Fee: \$300.00 Amended License Fee:

	The fee for the first temporary license is included in the initial application fee. N.M. Admin. Code 7.1.7.10
Licensure Term	Annual. N.M. Admin. Code 7.28.2.11
Renewal Late Fee Process	The licensee must submit renewal application on forms provided by the licensing authority, along with the required fee at least 30 days prior to expiration of the current license. Upon receipt of renewal application, required fee and an on-site survey, the licensing authority 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. 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. No health facility shall be operated without a license. N.M.Admin. Code 7.28.2.12
Application Process Summary	To obtain an initial license for a home health agency pursuant to these regulations, the following procedures must be followed by the applicant: The following documents must be submitted to the licensing authority: (1) Letter of intent: Submit to the licensing authority a letter of intention to open a home health agency pursuant to these regulations. (2) Application for initial license: All information requested by the licensing authority must be provided. All applications for an initial license must be accompanied by the required non-refundable fee. An application for an initial license as a home health agency falls under the “licensing of a health facility”. (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 licensing authority, 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. B. Upon the licensing authority's approval of the requested items (See above), a temporary license will be issued. Upon receipt of the temporary license, the home health agency may admit patients/clients. C. Upon becoming fully operational and accepting a patient/client, a home health agency must submit a written request to the licensing authority for the initial survey. D. Upon completion of the initial survey and determination that the facility is in compliance with these regulations, the licensing authority will issue an annual license. N.M. Admin. Code 7.28.2.10
Branches and Workstations (Satellite Offices)	"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 100 miles distance from the licensed location of the parent home health agency. (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 upon request of the licensing authority within two hours. N.M. Admin. Code 7.28.2.9 Service area: A home health agency may only provide services to patient/clients who reside within 100 miles distance from the licensed location of the agency. (1) The licensing authority may grant a temporary exception to the 100 mile distance limitation when the following conditions exist: (a) no other home health agency service for the patient/client is available; (b) no home health agency in the area within the 100 miles distance limitation is able or willing to provide services to the patient/client.

	Home health agencies not previously required to be licensed by the licensing authority shall have twelve months from the date these regulations are adopted to comply. N.M. Admin. Code 7.28.2.9 Auxiliary work station: Auxiliary work station: A non-licensed, non-staffed convenience work station 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 where a telephone and fax may be available for communication. The auxiliary work station shall not function as a branch office and the following requirements are intended to insure that the work station does not become a branch office: (2) must not be utilized to increase the geographical service area of a home health agency or as a substitute for a branch operation of the agency; (3) the name of the agency must not be identified by signage at the work station; (4) the telephone number for the work station shall not be advertised or otherwise made available to persons or individuals other than staff of the agency; (5) patient/clients shall only be admitted by and through the licensed location of the agency; (6) no orders for patient/client care from physicians shall be accepted by agency staff at its auxiliary work station; (7) no original patient/client records, copies of patient/client records or personnel records shall be maintained by the agency at the auxiliary work station. N.M. Admin. Code 7.28.2.9
Application Form	A home health agency license falls under the "health facility license". To begin the application process, a facility/business must submit a letter of intent (see process above) to the provided email address (facility.license@state.nm.us) to the attention of the licensing manager. Once the letter of intent is approved, an application packet will be emailed to the contact specified in the letter of intent. Questions regarding licensure and process – call 505-476-9093. See https://www.nmhealth.org/about/dhi/hflc/prop/stli/
Change of Ownership	Submit an initial licensure application at least 30 days prior to change of ownership.

	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 licensing authority when any one of the following situations occur: A. ownership of the agency changes; N.M. Admin. Code 7.28.2.14
Change in License Category or Classification Process	See “Changes to information in last submitted license application” row. We recommend contacting the New Mexico Department of Health directly regarding the required process for change in license category or classification process.
Change of Name Process	A licensee must apply to the licensing authority for an amended license when there is a change of name for the facility. (1) application must be on a form provided by the licensing authority (New Mexico Department of Health); (2) application must be accompanied by the required fee for an amended license; (3) application must be submitted within 10 working days of the change. N.M. Admin. Code 7.28.2.11
Change of Address Process	Submit an initial licensure application at least 30 days prior to change of location. 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 licensing authority when any one of the following situations occur: the agency changes location of its office;; N.M. Admin. Code 7.28.2.14
Changes to information in last submitted license application	A licensee must apply to the licensing authority for an amended license when there is a change of administrator/director. (1) application must be on a form provided by the licensing authority (New Mexico Department of Health)

	(2) application must be accompanied by the required fee for an amended license; (3) application must be submitted within 10 working days of the change. N.M. Admin. Code 7.28.2.11
Closure Process	Submit an initial licensure application at least 30 days prior to discontinue operations. 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 licensing authority when any one of the following situations occur: the agency discontinues operation. N.M. Admin. Code 7.28.2.14 A license will automatically expire at midnight on the day indicated on the license as the expiration date, unless sooner renewed, suspended, revoked, or: on the day an agency discontinues operation; N.M. Admin. Code 7.28.2.15
Key Personnel Requirements and Qualifications	All staff or contracted personnel involved in the care of patients/clients shall be at least eighteen (18) years of age. All staff, contracted personnel, or volunteers having patient/client contact must have a TB test in accordance with the requirements of the infectious disease bureau, of the public health division, department of health. N.M. Admin. Code 7.28.2.22 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 professional 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. N.M. Admin. Code 7.28.2.23 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. N.M. Admin. Code 7.28.2.24 Each agency licensed pursuant to these shall have an advisory group. A. The advisory group shall consist of: (5) at least three individuals; (6) an individual representing at least one of the services offered by the agency; (7) at least one member of the group must be neither an owner or an employee of the agency; (8) governing body members may also be part of the advisory group. E. The advisory group shall meet at least semi-annually to perform the following functions: (1) to review the agency's required policies and procedures and on-going quality improvement program and make recommendations to the governing body, at least annually; (2) to participate in the agency's program evaluation, at least annually; (3) to advise the agency on professional issues; (4) to assist the agency in maintaining liaison with other health care providers in the community and in its community information efforts. F. The advisory group meetings shall be documented by dated minutes and a copy of these minutes shall be kept on file in the agency. N.M. Admin. Code 7.28.2.25 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 at a minimum, a high school diploma or general equivalency diploma, training and experience in health services administration, and at least one year of supervisory or administrative experience in home health care; D. may also be the supervising physician or registered nurse; E. 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; F. a qualified person is authorized in writing to act in the absence of the administrator.
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	N.M. Admin. Code 7.28.2.26 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. N.M. Admin. Code 7.28.2.27 The medically directed services provided by the agency must be supervised by a licensed professional or an appropriately qualified staff member. A. The supervising staff member or their alternate who is similarly qualified must be available at all times during operating hours of the agency. B. The supervising staff member or alternate who is similarly qualified must participate in all activities relevant to the services provided, including developing qualifications for assignments of personnel. N.M. Admin. Code 7.28.2.28 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 will include, at a minimum: (7) Preparation of written patient/client care instructions which identify appropriate tasks to be performed by the personal care attendant or equivalent. (8) Conduct and document a supervisory visit to the patient/client's residence at least every 62 days or as often as the condition of the patient/client requires. Note: 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 will 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) Preparation of written patient/client care instructions which identify appropriate tasks to be performed by the homemaker.
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	(2) Conduct and document a supervisory visit to the patient/client's residence at least every 62 days or as often as the condition of the patient/client requires. Note: Patient/clients who have multiple homemakers require only one supervisory visit. The homemaker need not be present in the patient/client's residence at the time of the supervisory visit. N.M. Admin. Code 7.28.2.28
Background Check Requirements	NA. The State of New Mexico has developed Caregivers Criminal History Screening requirements applicable to agencies or businesses involved in the care disabled and elderly patients that are state funded programs (or reimbursed for services under any Medicaid or Medicaid waiver programs). If your agency does not contract with or receive funds for services from the State of New Mexico then you are exempt from the Caregivers Criminal History Screening requirements. For a full review of requirements and qualifications please review N.M. Admin. Code 7.1.9.
Initial Caregiver Training Requirements	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 Subsections C or E of 7.28.2.31 NMAC of these regulations. C. Source of training: Any agency licensed pursuant to these regulations may provide training under the following conditions: (9) The agency must 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 licensing authority prior to instituting training. (10) 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. (11) The licensing authority 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 licensing authority finds the agency in substantial noncompliance with these regulations. G. 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. 10 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. H. Instructor personnel: (1) The training of homemaker/personal care attendant or equivalent must be performed by or under the direction of a licensed professional or an appropriately qualified person. (2) Other pertinent personnel from the health professions may also be utilized as supplemental instructors. I. Documentation of training or competency evaluation: (1) All agencies which provide homemaker/personal care attendant or equivalent training courses or competency evaluations must document such training or competency evaluation for each individual taking the training or competency evaluation. The training or competency evaluation must be observed and documented by a licensed professional or an appropriately qualified person. (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; (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.
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Ongoing Caregiver Training Requirements	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. N.M. Admin. Code 7.28.2.30(F).
Survey Tags & Interpretive Guidelines	NA
Complaints, inspections, investigations and enforcement	The home health agency must 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 must document both the existence of the complaint and the resolution of the complaint. The agency's investigation of a complaint(s) must be initiated within three working days. N.M. Admin Code 7.28.2.40 INCIDENTS: A. Reporting: All home health agencies licensed pursuant to these regulations must report to the licensing authority any of the following which has, or could threaten the health, safety and welfare of the patient/clients or staff: (1) any serious incident or unusual occurrence; (2) injuries of unknown origin or known, suspected or alleged incidents of patient/client abuse, neglect, exploitation, or mistreatment by staff or person(s) contracted by the home health agency. B. Documentation: The agency is responsible for documenting all incidents, within five days of the incident, and having on file the following: (1) a narrative description of the incident; (2) evidence contact was made to the licensing authority; (3) results of the facility's investigation; (4) the facility action, if any. N.M. Admin Code 7.28.2.41
Application Corrections Requested by the Department	NA
Conditional & Provisional License	See Licensure Process above

Revisit Fee	NA
Reporting Requirements for Fraud, Abuse & Neglect	INCIDENTS: A. Reporting: All home health agencies licensed pursuant to these regulations must report to the licensing authority any of the following which has, or could threaten the health, safety and welfare of the patient/clients or staff: (1) any serious incident or unusual occurrence; (2) injuries of unknown origin or known, suspected or alleged incidents of patient/client abuse, neglect, exploitation, or mistreatment by staff or person(s) contracted by the home health agency. B. Documentation: The agency is responsible for documenting all incidents, within five days of the incident, and having on file the following: (1) a narrative description of the incident; (2) evidence contact was made to the licensing authority; (3) results of the facility's investigation; (4) the facility action, if any. N.M. Admin Code 7.28.2.41 New Mexico has a "Duty to Report" provision in the Adult Protective Services Act which states: any person, or financial institution, having reasonable cause to believe that an incapacitated adult is being abused, neglected or exploited shall immediately report that information to Adult Protective Services (APS). N.M. Stat. Ann. § 27-7-30(A). The report may be orally or in writing and shall include the name, age, and address of the adult, the name and address of any other person responsible for the adult's care, the nature and extent of the adult's condition, the basis of the reporter's knowledge and any other relevant information. APS remains on call for emergency reports of adult abuse, neglect, and exploitation twenty-four (24) hours a day, seven (7) days a week. N.M. Stat. Ann. § 27-7-30(B). APS Statewide Intake: 1-866-654-3219
Licensure Marketing	NA
Additional Considerations	POLICIES AND PROCEDURES: Each agency licensed pursuant to these regulations must have written policies and procedures for at least the following: A. scope of services offered;

	B. providing 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 timely resolution. N.M. Admin Code 7.28.2.38 QUALITY IMPROVEMENT: Each agency must establish an on-going quality improvement program to ensure an adequate and effective operation. To be considered on-going, the quality improvement program must document quarterly activity that addresses, but is not limited to: A. Clinical care: Assessment of patient/client goals and outcome, such as, diagnosis(es), plan 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 which 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 and advisory group of the home health agency. No more than one year may lapse between evaluations of the same part. E. The licensing authority 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. N.M. Admin Code 7.28.2.39
Relevant Statutes & Regulations	N.M. Code R. § 7.1.9 Caregivers Criminal History Screening Requirements N.M. Code R. § 7.28.2 N.M. Stat. Ann. § 29-17-5 N.M. Stat. Ann. § 27-7-30 Adult Protective Services Act

	N.M. Code. R. § 7.28.2 Requirements for Home Health Agencies
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