

**New York State Department of Health
Division of Home and Community Based Services**

**Procedure for Licensed Home Care Services Agency (LHCSA)
Administrative Approval of Licensure Amendments
February 15, 2022**

A LHCSA may seek approval for a licensure amendment in accordance with Public Health Law Article 36 and 10 NYCRR § 765-2.2. This procedure covers the following types of licensure amendments:

- A. Deleting or Adding a Service
- B. Deleting or Adding a County
- C. Adding an Additional Site
- D. Closing a Site/License Surrender
- E. Change of Address of Agency and/or Operator
- F. Change of Legal Entity (Corporate) Name, Change of Assumed Name (d/b/a) or New Assumed Name (d/b/a)
- G. License Reprint

A written request, on agency letterhead signed by the agency administrator, must be submitted with a completed copy of the LHCSA Licensure Amendment Request Checklist (Attachment A). Please send only by email to LHCSA@health.ny.gov .

A.(i) Deleting a Service:

Generally, services other than Nursing may be deleted from a license¹. The request will be approved if the agency is not serving any patients for the service(s) to be deleted and the agency has provided 30 days' written notice to the Department of its intention to delete a service. The written notice to the Department must include a plan consistent with 10 NYCRR § 765-2.3, detailing how each patient will be transitioned to another provider to ensure continuation of care and how patient records will be maintained and protected against harm, damage, loss and theft for the required retention period (if any patients are currently being provided with the service to be deleted or have been provided with the service to be deleted within the required retention period for patient records).

A.(ii) Adding a Service:

In order to receive administrative approval to add a service, a LHCSA shall have been licensed for more than 12 months and be actively serving patients. Actively serving patients means that the LHCSA has a plan of care in place for at least one (1) patient and is providing services to the patient(s) in their home. The 12-month licensure requirement may be waived as determined

¹ If an agency seeks to delete nursing services from its license, but (1) such agency will continue to have an RN or NP on staff to conduct the comprehensive assessment, develop patient plans of care, and supervise HHAs and PCAs where necessary; AND (2) such agency is proposing to offer only home health and/or personal care services, as permitted under Public Health Law § 3605(7), such agency *may* be permitted to delete nursing services from its license. Such applications should be flagged for further consideration by DHCBS central office, which will consult with Division of Legal Affairs as appropriate.

appropriate by the Department, e.g., no other access available for the patient. The LHCSA must be registered and be in compliance with applicable rules, regulations and directives of the Department. Moreover, the LHCSA must not have pending Plans of Correction (POCs) where such POCs are not yet approved due to the delay of the agency or operator. The Department may deny a request based on an agency's operational history or performance.

The agency must submit the following materials for each service requested: a policy and procedure for the additional service, job description(s), and quality evaluation tool to the appropriate Regional Office. The Regional Office may request additional information, and after completing the review of the request, will recommend approval or disapproval to the Central Office for final approval by the Division Director.

B.(i) Deleting a County:

The request will be approved if the agency is not serving any patients in the county or counties to be deleted, and the agency has provided 30 days' written notice to the Department of its intention to delete a county. Additionally, the written notice to the Department must include a plan consistent with 10 NYCRR 765-2.3, detailing how each patient will be transitioned to another provider to ensure continuation of care and how patient records will be maintained and protected against harm, damage, loss and theft for the required retention period (if any patients are being served in the county proposed to be deleted or have been served in the county proposed to be deleted within the required retention period for patient records).

B.(ii) Adding a County:

In order to receive administrative approval to add a county, a LHCSA shall have been licensed for more than 12 months and be actively serving patients. Actively serving patients means that the LHCSA has a plan of care in place for at least one (1) patient and is providing services to the patient(s) in their home. The 12-month licensure requirement may be waived as determined appropriate by the Department, e.g., need for additional capacity.

The Department may determine, based on the distance and/or travel time from the agency's office to the new county, that an additional site (office) is required. See section C below.

The LHCSA must be registered and be in compliance with applicable rules, regulations and directives of the Department. Moreover, the LHCSA must not have pending Plans of Correction (POCs) where such POCs are not approved due to the delay of the agency or operator. The Department may deny a request based on an agency's operational history or performance.

If a request is submitted during a pending Change of Ownership (CHOW) application, the request will be denied. A new request may be submitted after the CHOW has been completed.

Adding a County in Another Regional Office Geographic Area

The county in which a LHCSA's physical office site is located determines the Regional Office which oversees the operation of that agency. The counties served by a LHCSA are generally limited to the boundaries within the LHCSA's defined Regional Office geographic area. Please see Attachment B for the listing of Regional Offices and associated counties.

The Department may permit a LHCSA to expand and provide services in one additional county located outside of the Regional Office geographic area in which their physical office is located without being required to open an additional site (office). An additional site will be required if:

- the approval of the additional county will result in two (2) or more approved counties outside of the agency's main regional office geographic area.
- the LHCSA cannot adequately serve the additional county, as determined by the Department. This determination may include, but is not limited to, the distance between the LHCSA's office and the new county.

The agency must submit the following materials for each new county requested: current number of patients being served in each approved county; description of the request; and a staffing plan.

C. Adding an Additional Site

In order to receive administrative approval for adding a site, a LHCSA shall have been licensed for more than 12 months and be actively serving patients. Actively serving patients means that the LHCSA has a plan of care in place for at least one (1) patient and is providing services to the patient(s) in their home. The 12-month licensure requirement may be waived as determined appropriate by the Department. The LHCSA must be registered and in compliance with applicable rules and regulations and directives of the Department. Moreover, the LHCSA must not have pending Plans of Correction (POCs) where such POCs are not yet approved due to the delay of the agency or the operator. The Department may deny a request based on an agency's operational history or performance.

The proposed new site must be in a county in which the LHCSA is already approved to provide services or requested simultaneously with an approval to add the county in which the new site is to be located. The new site must replicate the services already offered by the LHCSA in the county where the proposed site will be located. An approved site will be issued a license with a unique license number.

D. Closing a Site/License Surrender

A closure plan is required to ensure that every patient being served is successfully transitioned to a new provider of care, patient records are appropriately handled, and patients, patient representatives and/or family members, physicians and contractors/vendors are aware of the change. Any agency seeking closure that is providing home care services must contact the appropriate Regional Office at least 10 days in advance of submitting the written request and checklist required under this policy in order to be provided information on the requirements to transition patients to appropriate providers, including record-keeping, and the proper notification of the closure to external parties. An agency is not considered closed until it has submitted a written closure plan to the Department with 30 days' notice, in accordance with 10 NYCRR section 765-2.3(a), and the Department has approved such plan.

Agency Terminates Services/License Surrender

A home care services agency license shall be promptly surrendered to the Department when the agency terminates services as required by 10 NYCRR section 765-2.3(g). A closure plan is always required under section 765-2.3, but may be abbreviated (i.e., for Department documentation purposes, only) when the agency is not serving patients.

E. Change of Address of an Agency and/or Operator

A LHCSA is required to provide notification of any proposed change in address of office site location or of primary office location of its operator. This must be sent to the Department at least 10 days prior to the effectuation of the address or location change to LHCSA@health.ny.gov . Please review Attachment A for the documentation that must be submitted to the Department.

F. Change of Legal Entity (Corporate) Name/Assumed Name (d/b/a) or New Assumed Name (d/b/a)

A change of Legal Entity (Corporate) Name/Assumed Name(d/b/a) or a New Assumed Name (d/b/a) will require two-part processing as described below.

Part 1

The LHCSA shall submit a request for approval of any proposed change in legal (corporate) or assumed name to LHCSA@health.ny.gov . Such request for approval shall include the following:

- a proposed Certificate of Amendment to the legal entity's formation document, as appropriate, a proposed Certificate of Amendment of the Certificate of Assumed Name, a proposed Certificate of Discontinuance of the Certificate of Assumed Name, or a proposed Certificate of Assumed Name;
- the current and proposed names, an explanation of the nature of, and the reasons for, the requested name change; and
- such other pertinent information and documents necessary for the Department's consideration, as requested.

The approval by the Department shall be withheld if a name indicates or implies that the operator or LHCSA is authorized to engage in activities for which it is not authorized, provide a level of care it is not authorized to provide, is misleading, causes confusion with the identity of another home care agency, or violates any provision of law.

If the request is denied, a letter will be sent to the agency indicating the reason(s) for the denial. Otherwise, Part 2 will commence.

Part 2

A letter will be sent to the agency requesting that the agency file the proposed documentation with the New York State Department of State. The appropriate filing receipt(s) (i.e., Certificate of Amendment to the legal entity name, Certificate of Discontinuation of current assumed name, Certificate of Assumed Name, etc.) must then be submitted to the Department of Health.

H. Duplicate Copy of License

The LHCSA must be registered, and the agency/operator must be in compliance with applicable rules and regulations and Department directives in order to receive a requested duplicate copy of the license. A PDF of the license will be emailed to the administrator listed in the Health Commerce System. If the request is submitted by the operator, the PDF of the license will be emailed to the operator. Requests for duplicate copies of a license should be sent to LHCSA@health.ny.gov