



<p>Title: Personal Service Agency License Requirements</p>	<p>Policy #: IDOH-HCBC/PSA-1</p>
<p>Scope:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> All Staff <input checked="" type="checkbox"/> All Providers <p><u>Scope of application if limited staff</u></p>	<p>Approvals:</p> <p>Janelyn Kulik, RN</p> <p>_____</p> <p>Division Director</p> <p>March 26, 2024</p> <p>_____</p> <p>Date</p>
<p>Effective dates: 26-Mar-24</p>	

Purpose

The purpose of the policy goes here.

Definitions

IC 16-27-4-1 "Client"

Sec. 1. As used in this chapter, "client" means an individual who has been accepted to receive personal services from a personal services agency.

As added by P.L.212-2005, SEC. 18.

IC 16-27-4-2 "Parent personal services agency"

Sec. 2. As used in this chapter, "parent personal services agency" means the personal services agency that develops and maintains administrative and fiscal control over a branch office.

As added by P.L.212-2005, SEC. 18.

IC 16-27-4-3 "Personal representative"

Sec. 3. As used in this chapter, "personal representative" means a person who has legal authority to act on behalf of the client with regard to the action to be taken.

As added by P.L.212-2005, SEC. 18.

IC 16-27-4-4 "Personal services"

Sec. 4. (a) As used in this chapter, "personal services" means:

- (1) attendant care services;
- (2) homemaker services that assist with or perform household tasks, including housekeeping, shopping, laundry, meal planning and preparation, and cleaning; and



(3) companion services that provide fellowship, care, and protection for a client, including transportation, letter writing, mail reading, and escort services; that are provided to a client at the client's residence.

(b) The term does not apply to the following:

- (1) Incidental services provided by a licensed health facility to patients of the licensed health facility.
- (2) Services provided by employers or membership organizations for their employees, members, and families of the employees or members if the services are not the predominant purpose of the employer or the membership organization's business.
- (3) Services that are allowed to be performed by a personal services attendant under [IC 12-10-17.1](#).
- (4) Services that require the order of a health care professional for the services to be lawfully performed in Indiana.
- (5) Assisted living Medicaid waiver services.
- (6) Services that are performed by a facility described in [IC 12-10-15](#).

As added by P.L.212-2005, SEC.18. Amended by P.L.141-2006, SEC.82.

IC 16-27-4-5 "Personal services agency"

Sec. 5. (a) As used in this chapter, "personal services agency" means a person that provides or offers to provide a personal service for compensation, whether through the agency's own employees or by arrangement with another person.

(b) The term does not include the following:

- (1) An individual who provides personal services only to the individual's family or to not more than three (3) individuals per residence and not more than a total of seven (7) individuals concurrently. As used in this subdivision, "family" means the individual's spouse, child, parent, parent-in-law, grandparent, grandchild, brother, brother-in-law, sister, sister-in-law, aunt, aunt-in-law, uncle, uncle-in-law, niece, and nephew.
- (2) A local health department as described in [IC 16-20](#) or [IC 16-22-8](#).
- (3) A person that:
 - (A) is approved by the division of disability and rehabilitative services to provide supported living services or supported living support to individuals with developmental disabilities;
 - (B) is subject to rules adopted under [IC 12-11-2.1](#); and
 - (C) serves only individuals with developmental disabilities who are in a placement authorized under [IC 12-11-2.1-4](#).

As added by P.L.212-2005, SEC.18. Amended by P.L.141-2006, SEC.83.

Policy Statement

IC 16-27-4-6 License required; branch offices; fee; application; onsite inspection; expiration; home health agency

Sec. 6. (a) To operate a personal services agency, a person must obtain a license from the state health commissioner. A personal services agency may not be opened, operated, managed, or maintained or conduct business without a license from the state department. Each parent personal services agency must obtain a separate license.



(b) A parent personal services agency may maintain branch offices that operate under the license of the parent personal services agency. Each branch office must be:

- (1) at a location or site from which the personal services agency provides services;
- (2) owned and controlled by the parent personal services agency; and
- (3) located within a radius of one hundred twenty (120) miles of the parent personal services agency.

(c) A license is required for any personal services agency providing services in Indiana. An out-of-state personal services agency must be authorized by the secretary of state to conduct business in Indiana and have a branch office in Indiana.

(d) Application for a license to operate a personal services agency must be made on a form provided by the state department and must be accompanied by the payment of a fee of two hundred fifty dollars (\$250). The application may not require any information except as required under this chapter.

(e) After receiving a completed application that demonstrates prima facie compliance with the requirements of this chapter and the payment of the fee required by subsection (d), the state department shall issue a license to the applicant to operate a personal services agency. The state department may conduct an onsite inspection in conjunction with the issuance of an initial license or the renewal of a license.

(f) In the state department's consideration of:

- (1) an application for licensure;
- (2) an application for renewal of licensure;
- (3) a complaint alleging noncompliance with the requirements of this chapter; or
- (4) an investigation conducted under section 7(a) of this chapter;

the state department's onsite inspections in conjunction with those actions are limited to determining the personal service agency's compliance with the requirements of this chapter or permitting or aiding an illegal act in a personal services agency.

(g) Subject to subsection (e), when conducting an onsite inspection, the state department must receive all documents necessary to determine the personal service agency's compliance with the requirements of this chapter. A personal services agency must produce documents requested by the state department surveyor not less than twenty-four (24) hours after the documents have been requested.

(h) A license expires one (1) year after the date of issuance of the license under subsection (e). However, the state department may issue an initial license for a period of less than one (1) year to stagger the expiration dates. The licensee shall notify the state department in writing at least thirty (30) days before closing or selling the personal services agency.

(i) A personal services agency license may not be transferred or assigned. Upon sale, assignment, lease, or other transfer, including transfers that qualify as a change in ownership, the new owner or person in interest must obtain a license from the state department under this chapter before maintaining, operating, or conducting the personal services agency.

(j) A home health agency licensed under [IC 16-27-1](#) that operates a personal services agency within the home health agency is subject to the requirements of this chapter. The requirements under [IC 16-27-1](#) do not apply to a home health agency's personal services agency. The requirements under this chapter do not apply to a home health agency's operations. A home health agency that is licensed under [IC 16-27-1](#) is not required to obtain a license under this chapter.



(k) If a person who is licensed to operate a personal services agency is also licensed to operate a home health agency under [IC 16-27-1](#), an onsite inspection for renewal of the person's personal services agency license must, to the extent feasible, be conducted at the same time as an onsite inspection for the home health agency license.

(l) A personal services agency that provides lift services must have a liability insurance policy that covers lift services.

As added by P.L.212-2005, SEC.18. Amended by P.L.77-2021, SEC.2.

IC 16-27-4-7 Unlicensed agencies; attorney general

Sec. 7. (a) The state department shall investigate a report of an unlicensed personal services agency operation and report its findings to the attorney general.

(b) The attorney general may do the following:

(1) Seek an injunction in the circuit or superior court of the county in which the unlicensed home health agency is located.

(2) Prosecute violations under section 23 of this chapter.

As added by P.L.212-2005, SEC.18.



Procedures and Responsibilities

License Requirements: After receiving a completed application that demonstrates sufficient compliance with the requirements of this chapter and the payment of the fee required, the state department shall issue a license to the applicant to operate a personal services agency. Licenses expire after a year of the date of issuance. License dates can be staggered to less than a year.

- ❑ Completed license application
- ❑ Payment of \$250 fee.
- ❑ Secretary of State documentation (Out of state agencies must be authorized by the secretary of state to conduct business in Indiana.)
- ❑ Expanded Criminal Check or National Background Check IC 20-26-2-1.5:
 - Verifies identity
 - Search of all names associated with the applicant
 - Search of the records maintained by all counties in Indiana where the applicant has resided
 - Search of the records maintained by all counties or similar governmental units in another state, if the applicant resided in another state
 - Search of United States district court records from the districts in which the applicant resided
 - Check of sex offender registries in every state or the national sex offender registry maintained by the United States Department of Justice
 - Multistate criminal database search
 - National background check as defined in [IC 10-13-3-12](#) which includes a check of the sex offender registries in all 50 states or the national sex offender registry maintained by the United States Department of Justice
- ❑ **Required Policy and Procedures:**
 - **IC 16-27-4-10 Service plan:** The personal services agency's manager or the manager's designee shall prepare a service plan for a client before providing personal services for the client. A permanent change to the service plan requires a written change to the service plan. All permanent changes require a change in the written service plan. The service plan must be signed and dated by the client not later than fourteen (14) days after services begin for the client and not later than fourteen (14) days after any permanent change to the service plan. The service plan form must:
 - ❑ be in writing, dated, and signed by the individual who prepared it;
 - ❑ list the types and schedule of services to be provided; and
 - ❑ state that the services to be provided to the client are subject to the client's right to temporarily suspend, permanently terminate, temporarily add, or permanently add the provision of any service.
 - **IC 16-27-4-11 Client satisfaction review:** The personal services agency's manager or the manager's designee shall conduct a client satisfaction review with the client every seventy-six (76) to one hundred four (104) days to discuss the services being provided and to determine if any change in the plan of services should occur. The review with the client may be in person or by telephone. This client satisfaction review must:



- be put in writing; and
- be signed and dated by the individual conducting the review.
- **IC 16-27-4-12 Client rights statement:** The personal services agency shall provide the client or the client's personal representative with the personal services agency's written statement of client rights not more than seven (7) days after providing services to the client. The statement of client rights must include the following information:
 - (1) The client has the right to have the client's property treated with respect.
 - (2) The client has the right to temporarily suspend, permanently terminate, temporarily add, or permanently add services in the service plan.
 - (3) The client has the right to file grievances regarding services furnished or regarding the lack of respect for property by the personal services agency and is not subject to discrimination or reprisal for filing a grievance.
 - (4) The client has the right to be free from verbal, physical, and psychological abuse and to be treated with dignity.
 - (5) A statement that it is not within the scope of the personal services agency's license to manage the medical and health conditions of the client if a condition becomes unstable or unpredictable. **(Please include your agency statement)**
 - (6) The charges for services provided by the personal services agency. **(Please include your agency information)**
 - (7) The personal services agency's policy for notifying the client of any increase in the cost of services. **(Please include your agency information)**
 - (8) The hours the personal services agency's office is open for business. **(Please include your agency information)**
 - (9) That on request the personal services agency will make available to the client a written list of the names and addresses of all persons having at least a five percent (5%) ownership or controlling interest in the personal services agency.
 - (10) The procedures for contacting the personal services agency's manager, or the manager's designee, while the personal services agency's office is open or closed. **(Please include your agency information)**
 - (11) The procedure and telephone number to call to file a complaint with the personal services agency. **(Please include your agency information)**
 - (12) That the state department does not inspect personal service agencies as part of the licensing process but does investigate complaints concerning personal service agencies.
 - (13) The procedure and telephone number to call to file a complaint with the state department along with the business hours of the state department.
 - Toll-free Complaint Report Line: 1-800-246-8909 (available during state business hours 8:15 am – 4:45 pm Monday-Friday.).
 - If the complaint report line is busy, or you are calling outside of state business hours, you may call the voicemail line at 317-233-7241. Please leave a brief message regarding your concerns along with your name and phone number on the secure voicemail line.



IC 16-27-4-13 Complaint Investigation: A personal services agency shall investigate a complaint made by a client, the client's family, or the client's personal representative regarding (1) service that is or fails to be furnished; and (2) lack of respect for the client's property by anyone furnishing services on behalf of the personal services agency. The complaint form must:

- Document the complaint and the resolution of the complaint.

Branch License Requirements: A parent agency may maintain branch offices that operate under the license of the parent agency. Each branch must:

- Be at a location or site from which the agency provides services (Full address must be included)
- Owned and controlled by the parent agency
- Must be located within a radius of 120 miles of the parent (Map must be included)
- This must be submitted by a manager, owner, or other designated party on file with IDOH.
- Relocations and additions must follow this process. To close a branch the agency name, license number, and effective date of closure must be submitted by a manager, owner, or other designated party on file with IDOH.

Change of Ownership License Requirements: A personal services agency license may not be transferred or assigned. Upon sale, assignment, lease, or other transfer, including transfers that qualify as a change in ownership, the new owner or person in interest must obtain a license from the state department under this chapter before maintaining, operating, or conducting the personal services agency.

- To obtain a license for the new ownership the provider should:
 - Submit an application
 - Submit the \$250 licensure fee
 -
- When an agency is sold, assigned, leased, or transferred the new owner acquires the agency's policy and procedures.
- Disclosure of ownership and management information must be made to the state department:
 - at the time of the personal services agency's request for licensure;
 - during each survey of the personal services agency; and
 - when there is a change in the management or in an ownership interest of more than five percent (5%) of the personal services agency. (Stock Transfer)
 - The determination of an ownership interest and the percentage of an ownership interest under this chapter must be determined under 42 CFR 420.201 and 42 CFR 420.202, as in effect on July 1, 2005.
 - The disclosure under subsection (a) must include the following:
 - The name and address of all persons having at least five percent (5%) ownership or controlling interest in the personal services agency.
 - The name and address of each person who is an officer, a director, a managing agent, or a managing employee of the personal services agency.
 - The name and address of the person responsible for the management of the personal services agency. The name and address of the chief executive officer and the chairperson (or holder of the equivalent position) of the governing body that is responsible for the person identified under subdivision (3).
 - Stock Transfers



- Agency license number (located on the bottom left of the license) and agency name
- Who is transferring the stock and who is receiving the stock (include any applicable titles for officers involved such as CEO, President, CFO, Manager, etc)
- The percentage of stock being transferred
- The effective date of the stock transfer
- A national or expanded background check for anyone with stock over 5%
- This must be submitted by a manager, owner, or other designated party on file with IDOH.

Closure Requirements: The licensee shall notify the state department in writing at least thirty (30) days before closing or selling the personal services agency.

- Agency license number (located on the bottom left of the license) and agency name
- Effective date of the closure
- This must be submitted by a manager, owner, or other designated party on file with IDOH.

Home Health Agencies with a Personal Service Agency: A home health agency licensed under [IC 16-27-1](#) that operates a personal services agency within the home health agency is subject to the requirements of IC-27-4. The requirements under [IC 16-27-1](#) do not apply to a home health agency's personal services agency. The requirements under this chapter do not apply to a home health agency's operation. A home health agency that is licensed under [IC 16-27-1](#) is not required to obtain a license under this chapter. If a person who is licensed to operate a personal services agency is also licensed to operate a home health agency under [IC 16-27-1](#), an onsite inspection for renewal of the person's personal services agency license must, to the extent feasible, be conducted at the same time as an onsite inspection for the home health agency license.

On/Off Site Investigations: The state department may conduct an onsite inspection in conjunction with licenses or complaints. The state is limited to determining compliance to the requirements of IC 16-27-4 or permitting/aiding an illegal act in a PSA. When conducting an investigation, the PSA has 24 hours to produce requested documents to the state.

- License Investigations: The state may conduct an onsite inspection in the consideration of an initial license application or renewal license application.
- Complaint Investigations: The state may conduct an inspection for a complaint alleging noncompliance with the requirements of a PSA.

PSA Enforcement: IC 16-27-4-20 Rules, IC 16-27-4-21 Penalty review, IC 16-27-4-23 Penalty

- The state health commissioner may take one (1) or more of the following actions on any ground.
 - (1) Issue a probationary license.
 - (2) Conduct a resurvey.
 - (3) Deny renewal of a license.
 - (4) Revoke a license.
 - (5) Impose a civil penalty in an amount not to exceed one thousand dollars (\$1,000).
- The state health commissioner may act for:



- (1) Violation of a provision of this chapter or a rule adopted under this chapter.
 - (2) Permitting, aiding, or abetting the commission of an illegal act in a personal services agency.
- The state department shall adopt rules under [IC 4-22-2](#) to govern licensing, complaint investigation, and collection of fees.
 - A licensee or an applicant for a license aggrieved by an action under this chapter may request a review under [IC 4-21.5](#).

FAQs

- **Agency Changes:**
 - **Staff Changes:** Agencies must provide staff changes to the agency and should include:
 - Agency license number (located on the bottom left of the license) and agency name
 - The name and title of the new staff member (if they are replacing someone please include who they are replacing)
 - The date of the change
 - An expanded or national background check
 - This must be submitted by a manager, owner, or other designated party on file with IDOH.
 - **Address, phone, fax, and/or email changes**
 - Agency license number (located on the bottom left of the license) and agency name
 - Specify if this change is to be made to the corporation's (owner) address, phone number, fax number, or e-mail address
 - The new physical/mailling address, phone number, fax number, or e-mail address of the agency.
 - The date of the change
 - This must be submitted by a manager, owner, or other designated party on file with IDOH.
 - **Agency Name Change**
 - Agency license number (located on the bottom left of the license) and current agency name
 - The new agency name
 - If the Doing Business As (dba) name is being changed then the Certificate of Assumed Business Name signed by the Secretary of State must be included
 - If the Legal Entity Name is being changed then the Certificate of Amendment from the Secretary of State must be included
 - The date of the change
 - This must be submitted by a manager, owner, or other designated party on file with IDOH.
 - **Change of Office Hours**



- Agency license number (located on the bottom left of the license) and agency name
 - The new office hours
 - The date of the change
 - This must be submitted by a manager, owner, or other designated party on file with IDOH.
- **Lift Services:**
 - A personal services agency that provides lift services must have a liability insurance policy that covers lift services. *As added by P.L.212-2005, SEC.18. Amended by P.L.77-2021, SEC.2.*
 - A client who receives attendant care services may decline assistance with any component of the attendant care services, including the use of lift equipment. Nothing in this IC 16-27-4 shall be construed to require a client to use lift equipment when lift services are provided.
 - A personal services agency that offers lift services to clients must train each employee or agent who provides those services on general standards for operating a lift, and train the employee or agent at the location where the client will need those services on the specific instructions on how to safely operate the client's lift in accordance with the manufacturer's instructions and manual. Lift services training is an attendant care services task and each employee or agent must be trained and evaluated
 - **Policy and Procedures:** Certain policies and procedures are not evaluated at the time of initial licensure however the agency is required to have those policies and procedures in place.
 - **IC 16-27-4-8 Unstable health conditions:**
 - If a personal services agency is aware that the client's medical or health condition has become unstable or unpredictable, the personal services agency shall notify the client, the client's personal representative, a family member, other relative of the client, or other person identified by the client of the need for a referral for medical or health services. The notification may be given in writing or orally and must be documented in the client's record with the personal services agency.
 - The personal services agency may continue to provide personal services for a client with an unstable or unpredictable medical or health condition but may not manage or represent itself as able to manage the client's medical or health condition. *As added by P.L.212-2005, SEC.18.*
 - **IC 16-27-4-9 Personal services agency manager**
 - A personal services agency shall employ an individual to act as the personal services agency's manager. The manager is responsible for the organization and daily operation of the personal services agency.
 - The manager may designate in writing one (1) or more individuals to act on behalf of or to perform any or all the responsibilities of the personal services agency's manager under this chapter.
 - The personal services agency's manager or the manager's designee shall be available to respond to client telephone calls twenty-four (24) hours a day per **IC 16-27-4-14.**



- **IC 16-27-4-15 Tuberculosis test**
 - An employee or agent of a personal services agency who will have direct client contact must complete a tuberculosis test in the same manner as required by the state department for licensed home health agency employees and agents.
- **IC 16-27-4-16 Evaluation and Training**
 - The competency of an employee or agent of a personal services agency who will perform attendant care services at the client's residence must be evaluated by the agency or the agency's designee for each attendant care services task that the personal services agency chooses to have that employee or agent perform. The agency has the sole discretion to determine if an employee or agent is competent to perform an attendant care services task.
 - After an evaluation, an employee or agent shall be trained in the attendant care services tasks the personal services agency believes require improvement. The employee or agent shall be reevaluated following any training.
 - The evaluation of the employee or agent and determination by the agency that the employee or agent is competent to perform the attendant care services task must occur before the employee or agent performs that task for a client without direct agency supervision.
 - The content of the evaluation and training must include the date and the signature of the person conducting the evaluation and training,
 - Must be documented for each employee or agent who performs personal services, including lift services.
- **IC 16-27-4-18 Compliance documentation:** A personal services agency shall document evidence of compliance with the requirements of this chapter and document services provided to clients.
 - The documentation or copies of the documentation must be maintained or be electronically accessible at a personal services agency's office in Indiana for not less than seven (7) years.

Legal Authorities and References

IC 16-27-4 Licensure of Personal Services Agencies

410 IAC 17-12-1 Tuberculosis Testing

Professional Organizations: **Indiana Association for Home and Hospice Care**

PAC & Public Access Laws

Indiana State Police: National Criminal History

Family and Social Services Administration (FSSA): Medicaid

Small Business Administration

Forms

Secretary of State Forms

Initial Application

Change of Ownership Application



Title: Personal Service Agency License
Requirements

Policy #: IDOH-HCBC/PSA-1

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Page: 12 of 12

Renewal Application

Indiana Department of Health

Division of Home and Community Based Care

2 North Meridian Street, 4B

Indianapolis, IN 46204