

Effective 5/3/2023

Effective until 5/1/2024

26B-2-238 Definitions for Sections 26B-2-238 through 26B-2-241.

As used in this section and Sections 26B-2-239, 26B-2-240, and 26B-2-241:

- (1) "Clearance" means approval by the department under Section 26B-2-239 for an individual to have direct patient access.
- (2) "Covered body" means a covered provider, covered contractor, or covered employer.
- (3) "Covered contractor" means a person that supplies covered individuals, by contract, to a covered employer or covered provider.
- (4) "Covered employer" means an individual who:
 - (a) engages a covered individual to provide services in a private residence to:
 - (i) an aged individual, as defined by department rule; or
 - (ii) a disabled individual, as defined by department rule;
 - (b) is not a covered provider; and
 - (c) is not a licensed health care facility within the state.
- (5) "Covered individual":
 - (a) means an individual:
 - (i) whom a covered body engages; and
 - (ii) who may have direct patient access;
 - (b) includes:
 - (i) a nursing assistant, as defined by department rule;
 - (ii) a personal care aide, as defined by department rule;
 - (iii) an individual licensed to engage in the practice of nursing under Title 58, Chapter 31b, Nurse Practice Act;
 - (iv) a provider of medical, therapeutic, or social services, including a provider of laboratory and radiology services;
 - (v) an executive;
 - (vi) administrative staff, including a manager or other administrator;
 - (vii) dietary and food service staff;
 - (viii) housekeeping and maintenance staff; and
 - (ix) any other individual, as defined by department rule, who has direct patient access; and
 - (c) does not include a student, as defined by department rule, directly supervised by a member of the staff of the covered body or the student's instructor.
- (6) "Covered provider" means:
 - (a) an end stage renal disease facility;
 - (b) a long-term care hospital;
 - (c) a nursing care facility;
 - (d) a small health care facility;
 - (e) an assisted living facility;
 - (f) a hospice;
 - (g) a home health agency; or
 - (h) a personal care agency.
- (7) "Direct patient access" means for an individual to be in a position where the individual could, in relation to a patient or resident of the covered body who engages the individual:
 - (a) cause physical or mental harm;
 - (b) commit theft; or
 - (c) view medical or financial records.
- (8) "Engage" means to obtain one's services:

- (a) by employment;
 - (b) by contract;
 - (c) as a volunteer; or
 - (d) by other arrangement.
- (9) "Long-term care hospital":
- (a) means a hospital that is certified to provide long-term care services under the provisions of 42 U.S.C. Sec. 1395tt; and
 - (b) does not include a critical access hospital, designated under 42 U.S.C. Sec. 1395i-4(c)(2).
- (10) "Patient" means an individual who receives health care services from one of the following covered providers:
- (a) an end stage renal disease facility;
 - (b) a long-term care hospital;
 - (c) a hospice;
 - (d) a home health agency; or
 - (e) a personal care agency.
- (11) "Personal care agency" means a health care facility defined by department rule.
- (12) "Resident" means an individual who receives health care services from one of the following covered providers:
- (a) a nursing care facility;
 - (b) a small health care facility;
 - (c) an assisted living facility; or
 - (d) a hospice that provides living quarters as part of its services.
- (13) "Residential setting" means a place provided by a covered provider:
- (a) for residents to live as part of the services provided by the covered provider; and
 - (b) where an individual who is not a resident also lives.
- (14) "Volunteer" means an individual, as defined by department rule, who provides services without pay or other compensation.