

**SBCMSHCPF**

**Health Facilities and Emergency Medical Services Division**

**6 CCR 1011-1**

**STANDARDS FOR HOSPITALS AND HEALTH FACILITIES  
CHAPTER XXVI – HOME CARE AGENCIES**

**Section 1 – Statutory Authority and Applicability**

1.1 The statutory authority for the promulgation of these rules is set forth in Sections 25-1.5-103 and 25-27.5-101, *et seq.*, C.R.S.

1.2 A home care agency, as defined herein, shall comply with all applicable federal and state statutes and regulations, including but not limited to, the following:

(A) This Chapter XXVI as it applies to the type of services provided.

(B) 6 CCR 1011-1, Chapter II, General Licensure Standards, unless otherwise modified herein.

**Section 2 – General Provisions**

2.1 The purpose of these rules is to implement Title 25, Article 27.5 of the Colorado Revised Statutes and to protect and promote the health and welfare of home care consumers through the establishment and enforcement of regulations setting minimum standards for home care services that does not infringe on accessibility or affordability while maintaining accountability to help ensure the safety and well-being of home care consumers.

2.2 These regulations incorporate by reference materials originally published elsewhere. Such incorporation does not include later amendments to or editions of the referenced material. The Department of Public Health and Environment maintains copies of the complete text of the incorporated materials for public inspection during regular business hours, and shall provide certified copies of the incorporated material at cost upon request. Information regarding how the incorporated material may be obtained or examined is available from:

Division Director  
Health Facilities and Emergency Medical Services Division  
Colorado Department of Public Health and Environment  
4300 Cherry Creek Drive South  
Denver, CO 80246  
Phone: 303-692-2800

Copies of the incorporated materials have been provided to the State Publications Depository and Distribution Center, and are available for interlibrary loan. Any incorporated material may be examined at any state publications depository library.

**Section 3 - Definitions**

- 1 3.1 "Authorized representative" means an individual responsible for the private payment of  
2 home care services, or an individual who possesses written authorization from the  
3 consumer to represent his or her interests regarding care, treatment and services  
4 provided by the HCA. The authorized representative shall not be the home care  
5 consumer's service provider except as allowed by state Medicaid programs.
- 6 3.2 "Branch office" means a location or site from which a home health agency provides  
7 services within a portion of the total geographic area served by the parent agency. The  
8 branch office is part of the home care agency and is located sufficiently close to share  
9 administration, supervision, and services in a manner that renders it unnecessary for the  
10 branch independently to meet the requirements of this Chapter.
- 11 3.3 "Bylaws" means a set of rules adopted by a Home Care Agency for governing the  
12 agency's operation.
- 13 3.4 "Certified Home Care Agency" means an agency that is certified by either the Federal  
14 Centers for Medicare and Medicaid Services (CMS) or the Colorado Department of  
15 Health Care Policy and Financing to provide skilled home health or personal care  
16 services.
- 17 3.5 "Clinical note" means a written notation of a healthcare contact with a consumer that is  
18 signed, with date and time, by a member of the home care agency that describes signs  
19 and symptoms; treatment; education; drugs administered and the consumer's reaction;  
20 and any changes in physical or emotional condition.
- 21 3.6 "Department" means the Colorado Department of Public Health and Environment.
- 22 3.7 "Employee" means any person providing home care and services on behalf of the  
23 agency.
- 24 3.8 "Geographic Area" means an area of land, for which the agency shall be licensed  
25 surrounding the home care agency's primary location. There is no restriction as to the  
26 number of agencies that may provide services in a particular geographic area.
- 27 3.9 "Home Care Agency" means any sole proprietorship, partnership, association,  
28 corporation, government or governmental subdivision or agency subject to the restrictions  
29 in Section 25-1.5-103(1)(a)(II), C.R.S., not-for-profit agency, or any other legal or  
30 commercial entity that manages and offers, directly or by contract, skilled home health  
31 services or personal care services to a home care consumer in the home care  
32 consumer's temporary or permanent home or place or residence. Home Care Agency is  
33 also referred to in this Chapter as "HCA" or "agency."
- 34 (A) A residential facility that delivers skilled home health or personal care services  
35 which the facility is not licensed to otherwise provide, shall either be licensed as  
36 a home care agency or require the skilled home health or personal care services  
37 to be delivered by a licensed home care agency.
- 38 (B) "Home Care Agency" does not include:
- 39 (1) Organizations that provide only housekeeping services;
- 40 (2) Community and rural health networks that furnish home visits for the  
41 purpose of public health monitoring and disease tracking;

- 1 (3) An individual who is not employed by or affiliated with a home care  
2 agency and who acts, alone, without employees or contractors;
- 3 (4) Outpatient rehabilitation agencies and comprehensive outpatient  
4 rehabilitation facilities certified pursuant to Title XVIII or XIX of the "Social  
5 Security Act", as amended;
- 6 (5) Consumer-directed attendant programs administered by the Colorado  
7 Department of Health Care Policy and Financing;
- 8 (6) Licensed dialysis centers that provide in-home dialysis services,  
9 supplies, and equipment;
- 10 (7) Subject to the requirements of section 25-27.5-103(3), C.R.S., a facility  
11 otherwise licensed by the department; or
- 12 (8) A home care placement agency as defined in this section.
- 13 **3.10** "Home care consumer" means a person who receives skilled home health services or  
14 personal care services in his or her temporary or permanent home or place of residence  
15 from a home care agency or home care placement agency.
- 16 **3.11** "Home care placement agency" means an organization that, for a fee, provides only  
17 referrals of providers to home care consumers seeking services. A home care placement  
18 agency does not provide skilled home health services or personal care services to a  
19 home care consumer in the home care consumer's temporary or permanent home or  
20 place of residence directly or by contract. Such organizations shall follow the  
21 requirements of sections 25-27.5-103(2), 25-27.5-104(1)(c), 25-27.5-107, C.R.S., and  
22 section 4 of this Chapter
- 23 3.12 "Informal caregiver" means person(s) that provide care to the consumer when the paid  
24 caregiver is not in the home.
- 25 3.13 "Intermediate care provider" means nurse practitioner or physician assistant.
- 26 **3.14** "Parent home care agency" means the agency that develops and maintains  
27 administrative control of branch offices.
- 28 **3.15** "Personal care services" means assistance with activities of daily living, including but not  
29 limited to bathing, dressing, eating, transferring, walking or mobility, toileting, and  
30 continence care. It also includes housekeeping, personal laundry, medication reminders,  
31 and companionship services furnished to a home care consumer in the home care  
32 consumer's temporary or permanent home or place of residence, and those normal daily  
33 routines that the home care consumer could perform for himself or herself were he or she  
34 physically capable, which are intended to enable that individual to remain safely and  
35 comfortably in the home care consumer's temporary or permanent home or place of  
36 residence.
- 37 **3.16** "Plan of Correction" means a written plan prepared by the HCA and submitted to the  
38 department for approval, that specifies the measures the HCA shall take to correct all  
39 cited deficiencies.
- 40 3.17 "Primary agency" means the agency responsible for the professional case management  
41 of the consumer when a secondary or subcontracted agency is also providing care and  
42 services.

- 1 3.18 "Service note" means a written notation that is signed, with date and time, by a member  
2 of the home care agency furnishing the non-medical services.
- 3 3.19 "Skilled home health services" means health and medical services furnished in the  
4 consumer's temporary or permanent place of residence that include wound care services;  
5 use of medical supplies including drugs and biologicals prescribed by a physician; in-  
6 home infusion services; nursing services; or certified nurse aide services that require the  
7 supervision of a licensed or certified health care professional acting within the scope of  
8 his or her license or certificate; occupational therapy; physical therapy; respiratory care  
9 services; dietetics and nutrition counseling services; medication administration; medical  
10 social services; and speech-language pathology services. "Skilled home health services"  
11 does not include the delivery of either durable medical equipment or medical supplies.
- 12 3.20 "State Board" means the State Board of Health.
- 13 3.21 "Subdivision" means a component of a multi-function health agency, such as the home  
14 care department of a hospital or the nursing division of a health department, which  
15 independently meets the licensure requirements for HCAs. A subdivision that has branch  
16 offices is considered a parent agency.
- 17 3.22 "Summary report" means the compilation of the pertinent factors of a home care  
18 consumer's clinical notes that is submitted to the consumer's physician by the skilled  
19 home health care agency.
- 20 3.23 "Supervision" means authoritative procedural guidance by a qualified person for the  
21 accomplishment of a function or activity.

## 22 Section 4 – Placement Agencies

### 23 4.1 Registration

- 24 (A) On or after June 1, 2009, each home care placement agency shall notify the  
25 Department in writing that it provides referrals for home care services to  
26 consumers and shall annually update such notice.
- 27 (B) The person(s) responsible for the operation of any placement agency that fails to  
28 register with the Department may be subject to a civil penalty assessed by the  
29 Department of not less than five hundred dollars per year or more than one  
30 thousand dollars per year.

### 31 4.2 Criminal history record check

- 32 (A) On or after June 1, 2009, the home care placement agency shall require any  
33 individual seeking placement to submit to a criminal history record check.
- 34 (B) The criminal history record check shall be conducted not more than ninety days  
35 prior to placement of the applicant.
- 36 (C) The cost of such inquiry shall be paid by either the home care placement agency  
37 or the individual seeking placement.

### 38 4.3 Disclosures

- 39 (A) The placement agency shall provide a written disclosure notice to the consumer  
40 or legal representative, before services are rendered, that specifies the service

1 provided by the placement agency and the consumer's obligation regarding  
2 employment of the home care worker.

3 (B) The disclosure notice shall be signed by the consumer or representative before  
4 the start of services and shall include information as to who is responsible for the  
5 following items:

- 6 (1) Liability for the home care worker while in the consumer's home,
- 7 (2) Payment of wages to the home care worker.
- 8 (3) Payment of employment and social security taxes,
- 9 (4) Payment of unemployment, workers' compensation and general liability  
10 insurance,
- 11 (5) Supervision of the home care worker,
- 12 (6) Scheduling of the home care worker,
- 13 (7) Assignment of duties to the home care worker,
- 14 (8) Hiring, firing and discipline of the home care worker,
- 15 (9) Provision of equipment or materials for the home care worker's use in  
16 providing services to the consumer, and
- 17 (10) Ensuring home care worker training and qualifications meet the needs of  
18 the consumer.

19 **Section 5 – Department Oversight**

20 5.1 License Classification

21 (A) A home care agency shall be issued a license consistent with the type and extent  
22 of services provided. Each agency shall meet the general requirements section  
23 of this Chapter as well as the skilled health care and/or personal care sections as  
24 applicable based upon the licensed classification.

25 Class A – a home care agency that provides skilled **health care services**.

26 Class B – a home care agency that provides personal care services. This  
27 includes agencies that provide in-home support services, independent living skills  
28 services, brain injury support services or other non-medical services in the  
29 consumer's permanent or temporary residence.

30 5.2 License Procedure

31 (A) The HCA shall comply with the requirements of 6 CCR 1011-1, Chapter II,  
32 Sections 2.3 and 2.4 at the time of the agency's request for initial or renewal  
33 licensure, and at the time of any change in ownership or management.

34 (B) When submitting an application for an initial or renewal license, the HCA shall  
35 also include evidence of either liability insurance coverage or a surety bond in

1 lieu of liability insurance coverage in the amount specified for the classification of  
2 services provided.

3 (C) The agency shall submit to the Department a list of the contiguous counties that  
4 it plans to serve and assure adequate staffing, supervision, consumer care and  
5 services are provided within the declared geographical area.

6 (D) Each HCA owner, applicant or licensee shall submit a complete set of his or her  
7 fingerprints to the department. The department shall forward such fingerprints to  
8 the Colorado Bureau of Investigation for the purpose of conducting a state and  
9 national fingerprint-based criminal history record check utilizing the records of the  
10 Colorado Bureau of Investigation and the Federal Bureau of Investigation. The  
11 owner, applicant or licensee shall pay the costs associated with the fingerprint-  
12 based criminal history record check to the Colorado Bureau of Investigation.

13 (1) No license shall be issued or renewed by the department if the owner,  
14 applicant, or licensee of the home care agency has been convicted of a  
15 felony or of a misdemeanor, which felony or misdemeanor involves moral  
16 turpitude or involves conduct that the department determines could pose  
17 a risk to the health, safety or welfare of HCA consumers.

18 (E) Except as otherwise specified herein, the department shall issue or renew a  
19 license when it is satisfied that the applicant or licensee is in compliance with  
20 these rules. A license issued or renewed pursuant to this section 5.2 shall expire  
21 one year after the date of issuance or renewal.

22 (F) No license shall be transferred from one location to another without prior  
23 approval from department as provided in this subsection. If an agency is  
24 considering moving or changing the licensed physical address, the agency shall  
25 notify the department 30 days prior to the intended relocation in accordance with  
26 6 CCR 1011-1, Chapter II, section 2.9.2.

27 (1) To retain the current license, the new physical location shall be relocated  
28 within the existing geographic service area and retain the same  
29 governing body and administrator.

30 (2) If the change in physical address does not meet the requirements listed  
31 above, the HCA shall submit an application for a new license.

32 (G) The department may refuse to renew the license of a home care agency that is  
33 out of compliance with the requirements of Section 25-27.5-101, *et seq.*, C.R.S.  
34 or these rules.

35 (H) If the department denies an application for an HCA license, the department shall  
36 notify the applicant in writing of such denial by mailing a notice to the applicant at  
37 the address shown on the application. The notice shall also inform the agency of  
38 its right to appeal the denial and the procedure for appealing the denial.

39 (I) Appeals of departmental denials shall be conducted in accordance with the State  
40 Administrative Procedure Act, Section 24-4-101, *et seq.*, C.R.S.

41 **5.3 Provisional licenses**

42 (A) The department may issue a provisional license to any applicant for the purpose  
43 of operating a home care agency for a period of ninety days if the applicant is

1 temporarily unable to conform to all of the minimum standards required by this  
2 Chapter, except that no license shall be issued to an applicant if the operation of  
3 the applicant's home care agency will adversely affect the health, safety, or  
4 welfare of the home care consumers of such home care agency.

5 (B) If requested by the Colorado Department of Health and Care Policy and  
6 Financing, the department may issue a provisional license for a period of ninety  
7 days to an agency that has applied to be a certified home care agency as defined  
8 herein.

9 (C) As a condition of obtaining a provisional license, the applicant shall show proof to  
10 the department that attempts are being made to conform and comply with  
11 applicable standards.

12 (D) No provisional license shall be granted before completion of a criminal  
13 background check and finding in accordance with section 5.2 of this Chapter.

14 (E) A second provisional license may be issued, for a like term and fee, to effect  
15 compliance. No further provisional licenses may be issued for the current year  
16 after the second issuance.

#### 17 5.4 License Fees

18 Unless otherwise specified in this Chapter, all licensing fees paid to the department shall  
19 be deemed non-refundable.

#### 20 5.5 Inspections

21 (A) A certified home care agency that applies for a license by June 1, 2009, shall be  
22 exempt from licensure inspection prior to issuance of the initial license.

23 (B) The department shall make such inspections as it deems necessary to ensure  
24 that the health, safety and welfare of home care consumers are being protected.  
25 In addition to licensure inspections, the department may conduct supplemental  
26 inspections at any time in response to complaints alleging noncompliance with  
27 the regulations contained in this Chapter.

28 (1) Consumer records kept in the home or individual consumer documents  
29 not included in the HCA's permanent record shall be made available to  
30 the department within two hours of request if the last visit occurred 14 or  
31 more days prior to the request. The time for production may be  
32 extended at the department's discretion.

33 (2) The consumer file and administrative records including, but not limited to,  
34 census and demographic information, complaint and incident reports,  
35 meeting minutes, quality assurance and annual program review  
36 documents shall be provided to the inspector within 30 minutes of  
37 request. The time for production may be extended at the department's  
38 discretion.

39 (C) Inspections shall not be conducted in a home care consumer's home without the  
40 consumer's consent.

41 (D) The HCA shall provide accurate and truthful information to the department during  
42 inspections, investigations and licensing activities. Failure to provide information

1 requested by the department and known to the agency shall be grounds for  
2 action against a license.

3 **5.6 Plan of Correction**

4 (A) An HCA shall submit to the department a written plan of correction detailing  
5 measures that will be taken by the agency to correct deficiencies found as a  
6 result of inspections and shall be submitted in the form and manner required by  
7 the Department.

8 (B) Plans of correction shall be:

9 (1) Submitted within ten calendar days after the date of the department's  
10 written notice of deficiencies, and

11 (2) Signed by the agency administrator.

12 (C) Corrective actions shall be implemented within 30 days of the exit date or as  
13 determined by the Department.

14 (D) The department has the discretion to approve, modify or reject plans of  
15 correction.

16 (1) If the plan of correction is acceptable, the department shall notify the  
17 agency.

18 (2) If the plan of correction is unacceptable, the department shall notify the  
19 agency in writing and the agency shall re-submit changes to the  
20 department within the time frame specified by the department.

21 (3) If the agency fails to comply with the requirements or deadlines for  
22 submission of a plan or fails to submit requested changes to the plan, the  
23 department may reject the plan of correction and impose intermediate  
24 restrictions or other disciplinary sanctions as set forth below.

25 (4) If the agency fails to timely implement the actions agreed to in the plan of  
26 correction, the department may impose intermediate restrictions or other  
27 disciplinary sanctions as set forth below.

28 **5.7 Intermediate restrictions or conditions**

29 (A) The department may impose intermediate restrictions or conditions on a license  
30 that may include at least one of the following:

31 (1) Retaining a consultant to address corrective measures;

32 (2) Monitoring by the department for a specific period;

33 (3) Providing additional training to employees, owners, or operators of the  
34 home care agency;

35 (4) Complying with a directed written plan to correct the violation, or

36 (5) Paying a civil fine not to exceed ten thousand dollars per calendar year  
37 for all violations.

1 (B) If the department imposes an intermediate restriction or condition that is not the  
2 result of a serious and immediate threat to health or welfare, the department shall  
3 provide the agency with written notice of the restriction or condition. No later  
4 than ten days after receipt of the notice, the agency shall submit a written plan  
5 that includes the time frame for completing the directed plan that addresses the  
6 restriction or condition specified.

7 (C) If the department imposes an intermediate restriction or condition that is the  
8 result of a serious and immediate threat to health, safety or welfare, the  
9 department shall notify the agency in writing, by telephone, or in person during  
10 an on-site visit.

11 (1) The agency shall remedy the circumstances creating the harm or  
12 potential harm immediately upon receiving notice of the restriction of  
13 condition.

14 (2) If the department provides notice of a restriction or condition by  
15 telephone or in person, the department shall send written confirmation of  
16 the restriction or condition to the agency within two business days.

17 (D) After submission of an approved written plan, the agency may appeal any  
18 intermediate restriction or condition to the department through an informal review  
19 process as specified by the department.

20 (E) If the department imposes an intermediate restriction or condition that requires  
21 payment of a civil fine, the agency may request and the department shall grant a  
22 stay in payment of the fine until final disposition of the restriction or condition.

23 (F) If an agency is not satisfied with the result of the informal review or chooses not  
24 to seek informal review, no intermediate restriction or condition shall be imposed  
25 until after the opportunity for a hearing has been afforded pursuant to the State  
26 Administrative Procedure Act, Section 24-4-101, *et seq.*, C.R.S.

## 27 5.8 Revocation or suspension

28 (A) The department may revoke or suspend the license of a home care agency that  
29 is out of compliance with the requirements of Section 25-27.5-101, *et seq.*,  
30 C.R.S. or these rules.

31 (B) The department shall revoke or suspend the license of a home care agency  
32 where the owner or licensee has been convicted of a felony or misdemeanor  
33 involving moral turpitude or conduct that the department determines could pose a  
34 risk to the health, safety or welfare of the consumer of such agency.

35 (C) Appeals of departmental revocations or suspensions shall be conducted in  
36 accordance with the State Administrative procedure Act, Section 24-4-101, *et*  
37 *seq.*, C.R.S.

## 38 5.9 Summary suspension

39 (A) The department may summarily suspend an agency's license if it finds, after  
40 investigation, that an agency has engaged in a deliberate and willful violation of  
41 these regulations or that the public health, safety, or welfare requires immediate  
42 action.

1 (B) If the department summarily suspends an agency's license, it shall provide the  
 2 agency with a notice explaining the basis for the summary suspension. The  
 3 notice shall also inform the agency of its right to appeal and that it is entitled to a  
 4 prompt hearing on the matter.

5 (C) Appeals of summary suspensions shall be conducted in accordance with the  
 6 State Administrative procedure Act, Section 24-4-101, *et seq.*, C.R.S.

#### 7 5.10 Civil fines

8 (A) If the department assesses a civil fine pursuant to this section, the money  
 9 received by the department shall be transmitted to the state treasurer, who shall  
 10 credit the same to the home care agency cash fund created in section 25-27.5-  
 11 105, C.R.S.

12 (B) Civil fines collected pursuant to this section shall be used for expenses related to:

- 13 (1) Continuing monitoring required by this section,
- 14 (2) Education for agencies to avoid restrictions or conditions or facilitate the  
 15 processes for application or change of ownership;
- 16 (3) Education for consumers and their families about resolving problems  
 17 with an agency, rights of consumers and responsibilities of agencies;
- 18 (4) Providing technical assistance to any home care agency for the purpose  
 19 of complying with changes in rules or state or federal law;
- 20 (5) Monitoring and assisting in the transition of consumers to other agencies,  
 21 when the transition is the result of the revocation of a license, or other  
 22 appropriate medical services; or
- 23 (6) Maintaining the operation of an agency pending correction of violations,  
 24 as determined necessary by the department.

### 25 Section 6 – General Requirements For All License Categories

#### 26 6.1 Out of State Entities

27 Every HCA providing services within the State, shall have a physical business office  
 28 capable of conducting day-to-day business as a home care agency within Colorado and  
 29 shall be licensed according to the services rendered.

#### 30 6.2 Branch Offices

- 31 (A) An HCA shall notify the department in advance of its plan to establish a branch  
 32 office. Notification shall include:
- 33 (1) A description of the services to be provided (which shall be the same as  
 34 the parent agency),
  - 35 (2) The geographic area to be served by the branch office, and
  - 36 (3) A description of how the parent agency will supervise the branch office.

1 (B) The parent agency administrator, manager or supervisor shall conduct an onsite  
2 visit of the branch office at least every month in accordance with agency policy.

3 (C) A health professional who possesses the experience, education and  
4 qualifications to oversee all care and services provided by the branch shall be  
5 available during all operating hours.

6 (1) If only personal care services are provided, an employee that meets the  
7 qualifications of supervisor shall be available during all operating hours.

8 (D) The location of the branch, in relation to the parent, shall be such that the parent  
9 is able to assure adequate supervision at all times.

10 (E) The branch office shall have a copy of all agency policies available and readily  
11 accessible to staff.

12 (F) The agency shall ensure that consumer records are readily accessible to all staff  
13 providing care and services.

14 6.3 Criminal History Record Checks

15 (A) On or after June 1, 2009, the HCA shall require any individual seeking  
16 employment with the agency to submit to a criminal history record check.

17 (B) The criminal history record check shall be conducted not more than ninety days  
18 prior to employment of the individual.

19 (C) The cost of such inquiry shall be paid by either the home care agency or the  
20 individual seeking employment.

21 (D) The HCA shall develop and implement policies and procedures regarding the  
22 employment of any individual who is convicted of a felony or misdemeanor to  
23 ensure that the individual does not pose a risk to the health, safety and welfare of  
24 the consumer.

25 6.4 Consumer Rights

26 (A) Assurance of rights

27 (1) The HCA shall establish and implement written policies and procedures  
28 regarding the rights of consumers and the implementation of these  
29 rights. A complete statement of these rights, including the right to file a  
30 complaint with the department, shall be distributed to all staff and  
31 contracted personnel upon hire.

32 (2) At a minimum, the HCA's policies and procedures shall specify that:

33 (a) The consumer or the consumer's authorized representative has  
34 the right to be informed of the consumer's rights through an  
35 effective means of communication.

36 (b) The consumer has the right to be assured that the HCA shall not  
37 condition the provision of care or otherwise discriminate against  
38 a consumer based upon personal, cultural or ethnic preference,  
39 disabilities or whether the consumer has an advance directive.

1 (c) The HCA shall protect and promote the exercise of these rights.

2 (B) Notice of rights

3 (1) Before the initiation of care or services, the HCA shall provide the  
4 consumer with a written notice of the consumer's rights in a manner that  
5 the consumer understands. The notice shall include information about  
6 the consumer's options if rights are violated, including how to contact an  
7 individual employed with the HCA who is responsible for the complaint  
8 intake and problem resolution process.

9 (C) Exercise of rights and respect for property and person

10 (1) The rights of the consumer may be exercised by the consumer or by his  
11 or her authorized representative.

12 (2) The consumer has the right to have his or her person and property  
13 treated with respect. The consumer has the right to be free from neglect,  
14 financial exploitation, verbal, physical and psychological abuse including  
15 humiliation, intimidation or punishment.

16 (3) The consumer, upon request to the HCA, has the right to be informed of  
17 the full name, licensure status, staff position and employer of all persons  
18 with whom the consumer has contact and is supplying, staffing or  
19 supervising care or services. The consumer has the right to be served  
20 by agency staff who are properly trained and competent to perform their  
21 duties.

22 (4) The consumer has the right to live free from involuntary confinement,  
23 and to be free from physical or chemical restraints as defined in 6 CCR  
24 1011-1, Chapter II, Part 8.

25 (5) The consumer has the right to express complaints verbally or in writing  
26 about services or care that is or is not furnished, or about the lack of  
27 respect for the consumer's person or property by anyone who is  
28 furnishing services on behalf of the HCA

29 (6) The consumer shall have the right to confidentiality of all records,  
30 communications, and personal information. The HCA shall advise the  
31 consumer of the agency's policies and procedures regarding disclosure  
32 of clinical information and records.

33 (D) Right to be informed and to participate in planning care and services

34 (1) The HCA shall inform the consumer in advance about the care and  
35 services to be furnished, and of any changes in the care and services to  
36 be furnished to enable the consumer to give informed consent.

37 (a) The consumer has the right to refuse treatment within the  
38 confines of the law, to be informed of the consequences of such  
39 action and to be involved in experimental research only upon the  
40 consumer's voluntary written consent.

41 (b) The consumer has the right to be told in advance of receiving  
42 care about the services that will be provided, the disciplines that

- 1 will furnish care, the frequency of visits proposed to be furnished,  
2 and the consequences of refusing care or services.
- 3 (2) The HCA shall offer the consumer the right to participate in developing  
4 the plan of care and receive instruction and education regarding the plan.
- 5 (a) The HCA shall advise the consumer in advance of the right to  
6 participate in planning the care or treatment, and in planning  
7 changes in the care or treatment
- 8 (b) Before commencing services, the HCA shall inform and  
9 distribute written information to the consumer concerning the  
10 agency's policies on advance directives, including a description  
11 of applicable state law. The HCA may furnish advance directives  
12 information to a consumer at the time of the first home visit, as  
13 long as the information is furnished before care is provided..
- 14 (E) The consumer has the right to be advised orally and in writing before care is  
15 initiated, of the extent to which payment for the HCA services may be expected  
16 from insurance or other sources, and the extent to which payment may be  
17 required from the consumer.
- 18 (F) The consumer has the right to be advised of any changes in billing or payment  
19 procedures before implementation.
- 20 (1) If an agency is implementing a scheduled rate increase to all clients, the  
21 agency shall provide a written notice to each affected consumer or  
22 authorized representative at least 30 days before implementation.
- 23 (2) The HCA shall advise the consumer or authorized representative of any  
24 individual changes orally and in writing as soon as possible, but no later  
25 than five business days from the date that the HCA becomes aware of a  
26 change.
- 27 (3) An HCA shall not assume power of attorney or guardianship over a  
28 consumer utilizing the services of the HCA, require a consumer to  
29 endorse checks over to the HCA or require a consumer to execute or  
30 assign a loan, advance, financial interest, mortgage or other property in  
31 exchange for future services.
- 32 (G) The consumer has the right to be advised of the availability of the state's toll-free  
33 HCA hotline. When the agency accepts the consumer for treatment or care, the  
34 HCA shall advise the consumer in writing of the telephone number of the home  
35 health hotline established by the state, the hours of its operation, and that the  
36 purpose of the hotline is to receive complaints or questions about local HCAs.  
37 The consumer also has the right to use this hotline to lodge complaints regarding  
38 care received or not received including implementation of the advance directives  
39 requirements.
- 40 (H) The HCA shall make available to the consumer prior to the start of services, a  
41 written notice listing all individuals or other legal entities having ownership or  
42 controlling interest in the agency.
- 43 (I) The HCA shall maintain documentation showing that it has complied with the  
44 requirements of this section.

1 **6.5 Admissions**

2 (A) Agencies shall only accept consumers for care or services on the basis of a  
3 reasonable assurance that the consumer's needs can be met adequately by the  
4 agency in the individual's place of temporary or permanent residence.

5 (1) There shall be documentation of the agreed upon days and times of  
6 services to be provided based upon the consumer's needs, but at least  
7 annually.

8 (B) If an agency receives a referral of a consumer who requires care or services that  
9 are not available at the time of referral, the agency shall advise the consumer's  
10 primary care provider and the consumer of that fact.

11 (1) The agency shall only admit the consumer if the primary care provider  
12 and the consumer or consumer's representative agree the ordered  
13 services can be delayed or discontinued.

14 **6.6 Discharge Planning**

15 (A) There shall be a specific plan for discharge in the consumer record and there  
16 shall be ongoing discharge planning with the consumer.

17 (B) If no improvement or no discharge is expected, the agency shall document in the  
18 consumer record this assessment and the reason why.

19 (C) The HCA shall assist each consumer to find an appropriate placement with  
20 another agency if the consumer continues to require care and/or services upon  
21 discharge. The HCA shall document due diligence in ensuring continuity of care  
22 upon discharge as necessary to protect the consumer's safety and welfare.

23 (D) An HCA shall not discontinue or refuse services to a consumer unless  
24 documented efforts have been made to resolve the situation that triggered such  
25 discontinuation or refusal to provide services.

26 (1) The consumer shall be notified verbally and in writing of the agency's  
27 intent to discharge and the reasons for the discharge.

28 **6.7 Disclosure Notice**

29 (A) A notice, as prescribed by the department, shall be provided to each consumer  
30 before services are rendered showing the licensure or registration type and  
31 services provided by the agency. The notice shall inform the consumer as to the  
32 responsible party for the following:

33 (1) Employer of the home care worker,

34 (2) Liability for the home care worker while in the consumer's home,

35 (3) Payment of wages to the home care worker,

36 (4) Payment of employment and social security taxes,

37 (5) Payment of unemployment, worker's compensation and general liability  
38 insurance,

- 1 (6) Supervision of the home care worker,  
 2 (7) Scheduling of the home care worker,  
 3 (8) Assignment of duties to the home care worker,  
 4 (9) Hiring, firing and discipline of the home care worker,  
 5 (10) Provision of equipment or materials for the home care worker's use in  
 6 providing services to the consumer, and  
 7 (11) Training and ensuring qualifications that meet the needs of the  
 8 consumer.
- 9 (B) The HCA shall ensure that the disclosure notice is signed by the consumer or  
 10 authorized representative before the start of services.
- 11 6.8 Non-compete agreements
- 12 (A) A HCA shall not coerce, threaten, or use any means of intimidation to prevent an  
 13 employee from terminating the employment relationship and commencing  
 14 employment at another HCA.
- 15 (B) Non-compete clauses, agreements or contracts shall only be enforceable in  
 16 accordance with Section 8-2-113, C.R.S.
- 17 **6.9 Complaint Processing**
- 18 (A) The HCA shall develop and implement policies to include the following items:
- 19 (1) Investigation of complaints made by a consumer or others about services  
 20 or care that is or is not furnished, or about the lack of respect for the  
 21 consumer's person or property by anyone furnishing services on behalf  
 22 of the HCA.
- 23 (2) Documentation of the existence, the investigation, and the resolution of  
 24 the complaint. The agency shall notify the complainant of the results of  
 25 the investigation and the agency's plan to resolve any issue identified.
- 26 (3) Incorporation of the substantiated findings into its quality assurance  
 27 program in order to evaluate and implement systemic changes where  
 28 needed.
- 29 (4) Explicit statement that the HCA does not discriminate or retaliate against  
 30 a consumer for expressing a complaint or multiple complaints.
- 31 (5) Maintenance of a separate record/log/file detailing all activity regarding  
 32 complaints received, and their investigation and resolution thereof. The  
 33 record shall be maintained for at least a two-year period of time and shall  
 34 be available for audit and inspection purposes.
- 35 **6.10 Agency Reporting Requirements**
- 36 (A) Each HCA shall comply with the occurrence reporting requirements set forth in 6  
 37 CCR 1011, Chapter II, Section 3.2.

- 1 (B) The agency shall investigate each reportable occurrence and institute  
2 appropriate measures to prevent similar future occurrences.
- 3 (1) Documentation regarding the investigation, including the appropriate  
4 measures to be instituted, shall be made available to the Department,  
5 upon request.
- 6 (2) A report with the investigation findings shall be available for review by  
7 the Department within five working days of the occurrence.
- 8 (C) Nothing in this section 6.10 shall be construed to limit or modify any statutory or  
9 common law right, privilege, confidentiality or immunity.
- 10 (D) An HCA shall notify the Department before the agency initiated discharge of one  
11 or more consumers who require continued paid care or services to protect their  
12 health, safety or welfare.
- 13 (1) Emergency discharges necessary to protect the safety and welfare of  
14 staff shall be reported to the Department within 48 hours of the  
15 occurrence.
- 16 (E) The home care agency shall ensure that all staff have knowledge of Article 3.1 of  
17 Title 26, C.R.S. regarding protective services for at-risk adults, and that all  
18 incidents involving neglect, abuse or financial exploitation are reported  
19 immediately, through established procedures, to the agency administrator or  
20 manager.
- 21 (1) Any home care agency that provides care and/or services to pediatric  
22 consumers, shall ensure that all staff have knowledge of Part 3 of Article  
23 3 of Title 19, C.R.S. regarding child abuse or neglect, and that all  
24 incidents involving child abuse or neglect are reported immediately,  
25 through established procedures, to the agency administrator or manager.
- 26 (2) The agency shall report the incident to the appropriate officials as  
27 specified in the statute and to the department as an occurrence. The  
28 agency shall make copies of all such reports available to the department  
29 upon request.
- 30 (3) The agency shall document that all alleged incidents involving neglect,  
31 abuse or health professional misconduct are thoroughly investigated in a  
32 timely manner. The agency shall develop and implement a policy that  
33 addresses what administrative procedures will be implemented to protect  
34 its consumers during the investigation process.

#### 35 6.11 Personnel Records and Policies

- 36 (A) Agency policy shall direct any program or service offered by the HCA directly or  
37 under arrangement be provided in accordance with the plan of care and agency  
38 policy and procedure.
- 39 (1) The HCA shall define the required competence, qualifications, and  
40 experience of staff in each program or service it provides.
- 41 (2) Personnel policies shall be available to all full and part-time employees.

- 1           **(B)** Personnel records for all employees shall include references, dates of  
2 employment and separation from the agency and the reason for separation.  
3 Personnel records for all employees shall also include:
- 4           (1)       Qualifications and licensure that are kept current.
- 5                   (a)       Qualifications include confirmation of type and depth of  
6 experience, advanced skills, training and education; and  
7 appropriate, detailed and observed competency evaluation and  
8 written testing overseen by a person with the same or higher  
9 validated qualifications.
- 10          (2)       Orientation to the agency,
- 11          (3)       Job descriptions for all positions assigned by the agency, and
- 12          (4)       Annual performance evaluation for each employee.
- 13          **(C)** Before employing any individual to provide direct consumer care or services, the  
14 agency shall contact the Department of Regulatory Agencies (DORA) to verify  
15 whether a license, registration or certification exists and is in good standing. A  
16 copy of the inquiry shall be placed in the individual's personnel file.

#### 17   **6.12 Emergency Preparedness**

- 18          **(A)** The home care agency (HCA) shall have a written emergency preparedness plan  
19 that is designed to manage consumers' care and services in response to the  
20 consequences of natural disasters or other emergencies that disrupt the  
21 agency's ability to provide care and services or threatens the lives or safety of its  
22 consumers.
- 23          **(B)** At a minimum, an agency's written emergency preparedness plan shall include  
24 the following:
- 25               (1)       The provisions for the management of all staff, who are designated to be  
26 involved in emergency measures, including the assignment of  
27 responsibilities and functions. All staff shall be informed of their duties  
28 and be responsible for implementing the emergency preparedness plan.
- 29               (2)       Education for consumers, caregivers and families on how to handle care  
30 and treatment, safety, and/or well-being during and following instances of  
31 natural (tornado, flood, blizzard, fire, etc.) and other disasters, or other  
32 similar situations appropriate to the needs of the consumer.
- 33               **(3)**       Staff education on emergency preparedness so that staff safety is  
34 assured.
- 35          **(C)** The agency shall review its emergency preparedness plan retrospectively after  
36 implementation of incident response and on an annual basis and incorporate into  
37 policy any substantive changes.

#### 38   **6.13 Coordination with External Home Care Agencies**

- 39          **(A)** Each HCA shall be responsible for the coordination of consumer services with  
40 external HCAs providing care and services to the same consumer.

1 (1) No HCA shall refuse to share consumer care information unless the  
2 consumer has chosen to refuse coordination with external HCAs.

3 (2) The consumer's refusal of such coordination shall be documented in the  
4 consumer's record.

5 **6.14 Quality Management Program**

6 (A) Every HCA shall establish a quality management program appropriate to the size  
7 and type of agency that evaluates the quality of consumer services, care and  
8 safety, and that complies with the requirements set forth in 6 CCR 1011, Chapter  
9 II, Section 3.1.

10 **6.15 Infection Control**

11 (1) The HCA shall provide training for its employees regarding the agency's  
12 written infection control policies and procedures at the time of hire and  
13 annually.

14 (2) The HCA shall evaluate the adequacy of its infection control policies and  
15 procedures at least annually, make any necessary substantive changes  
16 and document in writing.

17 **6.16 Employee Health – Communicable Disease Prevention**

18 (A) It shall be the responsibility of the HCA to establish written policies concerning  
19 pre-employment physical evaluations and employee health. Those policies shall  
20 include, but not be limited, to:

21 (1) Work restrictions to be placed on direct care staff who are known to be  
22 affected with any illness in a communicable stage or to be a carrier of a  
23 communicable illness or disease, afflicted with boils, jaundice, infected  
24 wounds, vomiting, diarrhea or acute respiratory infections.

25 **6.17 Missed visits**

26 (A) There shall be a mechanism for informing the consumer about scheduled visits in  
27 accordance with agency policy. Documentation shall be maintained and  
28 alterations in the schedule shall be provided to the consumer as soon as  
29 practical.

30 (1) The HCA's policy shall address processes for HCA planning for  
31 coverage of employee illness, vacation, holidays and unexpected  
32 voluntary or involuntary termination of employment.

33 (2) If the consumer does not respond to let staff in the home for the  
34 scheduled visit the HCA's attempts to ensure the safety of the consumer  
35 and the outcome of each attempt shall be documented.

36 (3) The services shall be provided to meet the needs of the consumer.  
37 Services shall be provided as agreed upon by the consumer and the  
38 HCA.

39 (4) If the HCA admits consumers with needs that require care or services to  
40 be delivered at specific times or parts of day, the HCA shall ensure

1 qualified staff in sufficient quantity are employed by the agency or have  
2 other effective back-up plans to ensure the needs of the consumer is  
3 met.

4 (5) The back-up plan for scheduled visits shall not include calling for an  
5 ambulance or other emergency services unless the presence of the  
6 scheduled staff in the home would still have warranted the summons of  
7 emergency services.

8 **6.18 Contracts**

9 (A) If personnel under hourly or per visit contracts are used by the HCA, there shall  
10 be a written contract between those personnel and the agency that specifies the  
11 following:

- 12 (1) Home care consumers are accepted for care only by the primary HCA.
- 13 (2) The specific services to be furnished.
- 14 (3) The necessity to conform to all applicable agency policies, including  
15 personnel qualifications.
- 16 (4) The responsibility for participating in developing plans of care or service.
- 17 (5) The manner in which services will be controlled, coordinated, and  
18 evaluated by the primary HCA.
- 19 (6) The procedures for submitting clinical/encounter notes, scheduling of  
20 visits, periodic consumer evaluation.
- 21 (7) The procedures for payment for services furnished under the contract.

22 **6.19 Information Management System**

23 (A) Each HCA shall implement a policy and procedure for an effective information  
24 management system either paper-based or electronic. Processes shall include  
25 effective management for capturing, reporting, processing, storing and retrieving  
26 clinical/service data and information in accordance with standards of practice.  
27 The system shall provide for:

- 28 (1) Privacy and confidentiality of protected health information from  
29 unauthorized use or manipulation;
- 30 (2) Organization of the consumer record utilizing standardized formats for  
31 documenting all care, treatment and services provided to consumers  
32 according to agency policy. Standardization shall not include pre-filled  
33 documentation of future care and services.

34 (B) In addition, for electronic consumer healthcare records, policies and procedures  
35 shall be devised and implemented to ensure:

- 36 (1) A method for validating data entry access and changes to previously  
37 entered data.

- 1 (2) Recovery of records including contingency plans for operational  
2 interruptions (hardware, software, or other systems failures), emergency  
3 service plan, a back-up system for retrieval of data from storage and  
4 information presently in the operating system.

5 **6.20 Consumer Record Content**

6 (A) All HCAs (personal care and skilled home health services) shall have a complete  
7 and accurate record for each consumer assessed, cared for, treated or served.  
8 The record shall contain sufficient information to identify the consumer; support  
9 the diagnosis or condition; justify the care, treatment, and/or services; and  
10 promote continuity of care internally and externally where applicable.

11 (1) Such records shall contain consumer-specific information as appropriate  
12 to the care, treatment or services provided including but not limited to:

- 13 (a) Records of communications with the consumer regarding care,  
14 treatment and services, including documentation of phone calls  
15 and emails.
- 16 (b) Referrals to and names of known home care agencies,  
17 individuals and organizations involved in the consumer's care

18 (2) In addition clinical records for HCAs providing skilled home care services  
19 shall contain, where applicable:

- 20 (a) Hospital and emergency room records for known episodes or  
21 documentation of efforts to obtain the information.
- 22 (b) Medical equipment provided by the HCA or related to the care,  
23 treatment and services provided including assessment of  
24 consumer and family comprehension of appropriate use and  
25 maintenance.
- 26 (c) Consumer and family education, and training on services or  
27 treatments and the use of equipment at the time of delivery to  
28 the home.
- 29 (d) Safety measures taken to protect the consumer from harm  
30 including fall risk assessments, and documentation why any  
31 identified or planned safety measures were not implemented or  
32 continued.
- 33 (e) Diagnostic and therapeutic procedures, treatments, tests and  
34 their results where known to have occurred.

35 **6.21 Residential Facilities**

36 (A) The requirements contained in this Chapter apply only to process, policies and  
37 procedures that address those consumers receiving skilled home care and /or  
38 personal care services in the in their temporary or permanent place of residence.

39 (B) The requirements apply to all residential facilities providing home care services  
40 not covered under its primary residential care license or certification.

- 1 (1) Any residential facility that delivers skilled home health or personal car  
2 services that the facility is not licensed or certified to otherwise provide,  
3 shall either be licensed as a home care agency or require the skilled  
4 home health or personal care services to be delivered by a licensed  
5 home care agency.
  
- 6 (2) Consumer services shall be provided only upon individual service  
7 contracts. The resident or consumer requiring services not covered  
8 under the primary license shall be given the opportunity to contract with  
9 the home care agency of their choice and shall not be restricted to the  
10 use of the residential facility home care agency.
  
- 11 (3) A residential facility may not contract for nor provide health and personal  
12 care services on a facility wide basis under this license. Each residential  
13 facility providing facility-wide services shall be licensed according to the  
14 appropriate provider type.
  
- 15 (C) The requirements for governing body, professional advisory committee,  
16 complaints, occurrences and quality assurance activities may be met, in whole or  
17 in part, in conjunction with like activities of the primary license. However, there  
18 shall be documented oversight of the home care portion of the services provided  
19 distinct from that of the primary license.
  
- 20 (D) The home care records shall be easily identifiable and separated in the  
21 consumer record from the residential care records.

22 **Section 7 – Skilled Care**

23 **7.1 Governing Body**

- 24 (A) A home care agency shall have an organized governing body.
  - 25 (1) The body shall consist of members who singularly or collectively have  
26 business and healthcare experience sufficient to oversee the services  
27 provided by the home care agency.
  
- 28 (B) The governing body shall have a process for review of agency operations at least  
29 quarterly and meet at least annually.
  
- 30 (C) The governing body shall assume responsibility for:
  - 31 (1) Compliance with all federal regulations, state rules, and local laws;
  - 32 (2) Quality patient care;
  - 33 (3) Policies and procedures which describe and direct functions or services  
34 of the home care agency and protect patient rights;
  - 35 (4) Bylaws that shall include at least:
    - 36 (a) A description of functions and duties of the governing body,  
37 officers, and committees;
    - 38 (b) A statement of the authority and responsibility delegated to the  
39 administrator;

- 1 (c) Meet as stated in bylaws, at least annually;
- 2 (d) Appoint in writing a qualified administrator who is responsible for  
3 the agency's overall functions.
- 4 (5) Review of the written agency evaluation report and other  
5 communications from the administrator or group of professional  
6 personnel with evidence of written response.
- 7 (6) Establish and ensure the maintenance of a system of financial  
8 management and accountability.
- 9 (7) Organization, services furnished, administrative control, and lines of  
10 authority for the delegation of responsibility down to the patient care level  
11 that are clearly set forth in writing and are readily identifiable.

## 12 7.2 Administration

- 13 (A) The HCA, under the direction of the governing body, shall prepare an overall plan  
14 and a budget that includes an annual operating budget and capital expenditure  
15 plan (as applicable). The overall plan and budget shall be prepared by a  
16 committee consisting of representatives of the governing body, the administrative  
17 staff, and the medical staff (if any) of the HCA. The overall plan and budget shall  
18 be reviewed and updated at least annually by the committee referred to herein  
19 under the direction of the HCA governing body.
- 20 (B) The HCA shall show evidence of either liability insurance coverage or a surety  
21 bond in lieu of liability insurance coverage in the amount of at least one hundred  
22 thousand dollars (\$100,000) per occurrence, three hundred thousand dollars  
23 (\$300,000) aggregate. Such coverage shall be maintained for the duration of the  
24 license period.
- 25 (C) Any HCA that performs procedures in the consumer's residence that are  
26 considered waived clinical laboratory procedures under the Clinical Laboratory  
27 Improvement Act of 1988, shall possess a certificate of waiver from the Centers  
28 for Medicare and Medicaid or its designated agency.
- 29 (D) Any HCA that provides equipment to consumers shall have written policies and  
30 procedures for the management of medical equipment provided for use in  
31 consumer homes including selection, acquisition, delivery and maintenance of  
32 the equipment.
- 33 (E) The HCA shall make full disclosure of these policies to all consumers with  
34 medical equipment in the home. The policies shall provide such disclosure to the  
35 consumer at the time of admission. The policies and procedures shall include  
36 the following:
- 37 (1) A process to provide an appropriate back-up system including  
38 emergency services 24 hours per day where the malfunction may  
39 threaten the consumer's life.
- 40 (2) Monitoring and acting upon equipment hazard notices and recalls.
- 41 (3) Equipment is sanitary, clean and undamaged upon delivery to the  
42 consumer.

- 1 (4) Equipment is safety tested and checked for proper operation prior to or  
2 at the time of delivery and set-up.
- 3 (5) Basic safety and operational checks on infusion pumps that include a  
4 volumetric test of accuracy of infusion rate between each patient use.
- 5 (6) Performance of routine and preventative maintenance conducted at  
6 defined intervals per manufacturer's guidelines.

7 (F) Availability

- 8 (1) The agency shall have a registered nurse or other health professional (if  
9 nursing is not the predominant service) available after business hours.
- 10 (2) The agency shall have a policy describing at least the following:
  - 11 (a) How patients will contact the agency after hours; and
  - 12 (b) How the agency will ensure the health professional on call has  
13 access to all current patient information.

14 7.3 Professional Advisory Committee

15 (A) Each HCA shall have a group of professional personnel that includes at least one  
16 physician and one registered nurse, a representative from each professional  
17 discipline the HCA employs or contracts to provide services. The group of  
18 professional personnel shall establish and annually review the agency's policies  
19 governing the all services offered, admission and discharge policies, medical  
20 supervision and plans of care, emergency care, clinical records, personnel  
21 qualifications, and program evaluation. At least one member of the group shall  
22 be neither an owner, an employee nor a contractor for the provision of consumer  
23 care services for the HCA.

24 (B) The agency shall implement an on-going mechanism for consumer involvement  
25 to provide input and comment regarding services provided by the agency in  
26 accordance with agency policy. Consumer input and commentary shall be  
27 provided to the group of professional personnel at least annually to identify  
28 trends or issues requiring consideration of the group.

29 (C) The group of professional personnel shall meet annually and as frequently as  
30 necessary to advise the agency on professional issues, to participate in the  
31 evaluation of the agency's program, and to assist the agency in maintaining  
32 liaison with other health care providers in the community and in the agency's  
33 community information program. The HCA shall have a policy and procedure to  
34 establish criteria for calling a meeting of the group of professional personnel  
35 more frequently than annually. The policy shall be developed to ensure  
36 professional advice is requested and received at an appropriate frequency to  
37 protect and preserve the health, safety, and welfare of the consumers it serves.  
38 Each meeting shall be documented by dated minutes and signatures of  
39 attendees. Meeting minutes shall be forwarded to the governing body to review  
40 and make recommendations.

41 7.4 Agency Evaluation

- 1 (A) The agency's governing body or its designee shall conduct a comprehensive  
2 evaluation of the agency's total operation at least annually.
- 3 (B) The evaluation shall assure the appropriateness and quality of the agency's  
4 services with findings used to verify policy implementation, to identify problems,  
5 and to establish problem resolution and policy revision as necessary.
- 6 (C) The evaluation shall consist of an overall policy and administration  
7 review, including the scope of services offered, arrangements for  
8 services with other agencies or individuals, admission and discharge  
9 policies, supervision and plan of care, emergency care, service records,  
10 personnel qualifications.
- 11 (D) In evaluating each aspect of its total program, the HCA shall consider four main  
12 criteria:
- 13 (1) Appropriateness. Assurance that the area being evaluated addresses  
14 existing and/or potential problems.
- 15 (2) Adequacy. A determination as to whether the HCA has the capacity to  
16 overcome or minimize existing or potential problems.
- 17 (3) Effectiveness. The service(s) offered accomplishes the objective(s) of  
18 the HHA and anticipated consumer outcome(s).
- 19 (4) Efficiency. Whether there is a minimal expenditure of resources by the  
20 HHA to achieve desired goals and anticipated consumer outcomes.
- 21 (E) Documentation of the annual evaluation shall include the names and titles of the  
22 persons carrying out the evaluation, the criteria and methods used to accomplish  
23 it, and any action taken by the agency as a result of its findings.
- 24 (F) An evaluation of the agency's client records shall be carried out at least quarterly  
25 by appropriate professionals representing the scope of the agency's program.  
26 The evaluation shall include a review of sample active and closed client records  
27 to ensure that agency policies are followed in providing services, both direct and  
28 under arrangement, and to assure that the quality of service is satisfactory and  
29 appropriate. The review shall consist of a representative sample of all home care  
30 services provided by the agency.

## 31 7.5 Administrator

- 32 (A) The administrator shall assume over-all day-to-day authority for the operation of  
33 the agency including but not limited to:
- 34 (1) Organizing and directing the agency's ongoing functions;
- 35 (2) Maintaining an ongoing liaison between the governing body and the  
36 personnel;
- 37 (3) Employing qualified personnel and ensure appropriate ongoing  
38 education and supervision of personnel and volunteers;
- 39 (4) Ensuring the accuracy of public information materials and activities;

- 1 (5) Implementing a budgeting and accounting system; and
- 2 (6) Designating a qualified alternate administrator to act in the
- 3 administrator's absence.
  
- 4 (B) The administrator shall:
- 5 (1) Be at least 21 years of age;
- 6 (2) Be a licensed physician, registered nurse or other licensed healthcare
- 7 professional; or have experience and education in health service
- 8 administration;
- 9 (3) Be qualified by education, knowledge and experience to oversee the
- 10 services provided;
- 11 (4) Have at least two years healthcare or health service administration
- 12 experience with at least one year of supervisory experience in home care
- 13 or a closely related health program; and
- 14 (5) Have completed the training requirements of the administrator.
  
- 15 (C) The administrator shall have the overall responsibility to ensure the following:
- 16 (1) The agency is in compliance with all applicable federal, state and local
- 17 laws,
- 18 (2) The completion, maintenance and submission of such reports and
- 19 records as required by the Department,
- 20 (3) Ongoing liaison with the governing body, staff members and the
- 21 community,
- 22 (4) A current organizational chart to show lines of authority down to the
- 23 consumer level,
- 24 (5) The management of the business affairs and the overall operation of the
- 25 agency,
- 26 (6) Maintenance of appropriate personnel records, financial and
- 27 administrative records and all policies and procedures of the agency,
- 28 (7) Employment of qualified personnel in accordance with written job
- 29 descriptions,
- 30 (8) Orientation of new staff, regularly scheduled in-service education
- 31 programs and opportunities for continuing education for the staff,
- 32 (9) Designate in writing the qualified staff member to act in the absence of
- 33 the administrator, and
- 34 (10) Availability of the administrator or designee at all hours employees are
- 35 providing services, at minimum any eight-hour period between 7 a.m.
- 36 and 7 p.m. Monday through Friday.

1 (11) Marketing, advertising and promotional information accurately represents  
2 the HCA and addresses the care, treatment and services that the HCA  
3 can provide directly or through contractual arrangement.

4 7.6 Curriculum for Administrator Training

5 (A) A first time administrator or alternate administrator shall complete a total of 24  
6 hours of training in the administration of an agency before the end of the first 12  
7 months after designation to the position.

8 (B) A first-time administrator or alternate administrator shall complete eight (8) clock  
9 hours of educational training in the administration of an agency within the first  
10 month of employment. The eight (8) clock hours shall include, at a minimum, the  
11 following topics:

- 12 1) Home care overview;
- 13 2) Information on the licensing standards for the agency;
- 14 3) Information on state and local laws applicable to the agency:
  - 15 (a) The Americans with Disabilities Act;
  - 16 (b) The Civil Rights Act of 1991;
  - 17 (c) The Rehabilitation Act of 1993;
  - 18 (d) The Family and Medical Leave Act of 1993;
  - 19 (e) The Occupational Safety and Health Administration  
20 requirements; and

21 (C) A first time administrator and alternate administrator shall complete an additional  
22 16 clock hours of educational training before the end of the first 12 months after  
23 designation to the position. Any of the 16 hours may be completed prior to  
24 designation if completed during the 12 months immediately preceding the date of  
25 designation to the position. The additional 16 clock hours shall include the  
26 following subjects and may include other topics related to the duties of an  
27 administrator:

- 28 (1) Consumer rights, governing body and administrator responsibilities,  
29 professional advisory committee, quality management plans, occurrence  
30 reporting, and complaint investigation and resolution process,
- 31 (2) Personnel qualifications, experience, competency and evaluations,
- 32 (3) Financial management,
- 33 (4) Ethics in healthcare,
- 34 (5) Needs of the fragile, ill and physically and cognitively disabled in the  
35 community setting and special training and staffing considerations,
- 36 (6) Behavior management techniques,

- 1 (7) Staffing methodologies and oversight of scheduling,  
2 (8) Staff training and supervision,  
3 (9) Limitations of personal care versus health care services.
- 4 (D) The 24-hour education requirement shall be met through structured, formalized  
5 classes, correspondence courses, competency-based computer courses, training  
6 videos, distance learning programs, or other training courses. Subject matter  
7 that deals with the internal affairs of an organization does not qualify for credit.  
8 The training shall be provided or produced by an academic institution, a  
9 recognized state or national organization or association, an independent  
10 contractor, or an agency.
- 11 (1) If an agency or independent contractor provides or produces training, the  
12 training shall first be approved by the department or recognized by a  
13 national organization or association. The agency shall maintain  
14 documentation of this approval for review by inspectors.
- 15 (E) Documentation of administrator and alternate administrator training must be on  
16 file at the agency and contain the name of the class or workshop, the course  
17 content or curriculum, the hours and dates of the training, and the name and  
18 contact information of the entity and trainer who provided the training.
- 19 (F) After completion of the 24 hours of educational training within the first 12 months  
20 after designation as a first time administrator and alternate administrator, each  
21 must then complete the continuing education requirements in each subsequent  
22 12-month period after designation.
- 23 (G) An administrator and alternate administrator shall complete 12 clock hours of  
24 continuing education within each 12-month period beginning with the date of  
25 designation. The education shall include at least two of the following topics and  
26 may include other topics related to the duties of the administrator.
- 27 (1) Any of the topics listed under the initial training requirements,  
28 (2) Development and implementation of agency policies,  
29 (3) Healthcare management,  
30 (4) Ethics,  
31 (5) Quality improvement,  
32 (6) Risk assessment and management,  
33 (7) Financial management,  
34 (8) Skills for working with consumers, families and other professional service  
35 providers,  
36 (9) Community resources,  
37 (10) Marketing.

1 (H) For an administrator or alternate administrator who was an administrator prior to  
2 June 1, 2009, but had not served as an administrator for 180 days or more  
3 immediately preceding the date of designation, at least eight (8) of the 12 clock  
4 hours within the first 12 months after designation shall include the topics listed for  
5 first time administrators. The remaining four clock hours shall include topics  
6 related to the duties of the administrator and include at least two (2) of the topics  
7 listed under continuing education. If a previous administrator has not been  
8 employed as such for 2 years or more, the requirements for a first time  
9 administrator apply.

#### 10 7.7 Nursing or Healthcare Supervisor

11 (A) The skilled nursing services furnished shall be under the supervision and  
12 direction of a physician or registered nurse who has at least two years of nursing  
13 experience including one year in home care or a closely related services. Other  
14 healthcare services shall be under the supervision and direction of a physician,  
15 registered nurse, or other licensed healthcare professional who has at least two  
16 years healthcare experience in the field of supervision including one year  
17 experience in home care or a closely related service. This person, or similarly  
18 qualified alternate, shall be available at all times during operating hours and  
19 participate in all activities relevant to the professional services furnished,  
20 including the development of qualifications and the assignment of personnel.

#### 21 7.8 Personnel

22 (A) Each employee and contracted staff shall possess the education and experience  
23 to provide services in the homes of consumers in accordance with agency policy,  
24 state practice acts and professional standards of practice as set forth in the  
25 definitions of this Chapter.

#### 26 (B) Qualifications

- 27 (1) Licensed, registered or certified healthcare providers shall, at a  
28 minimum, meet the following requirements:
- 29 (a) Be qualified as a Physician, Pharmacist, Physician Assistant,  
30 Nurse Practitioner, Clinical Social Worker, Social Worker,  
31 Physical Therapist, Occupational Therapist, Respiratory  
32 Therapist, Registered Nurse, Licensed Practical Nurse, Massage  
33 Therapist, Certified Nurse Aide or other provider licensed,  
34 registered or certified by the Department of Regulatory Affairs.
  - 35 (b) Meet the requirements for license, certification or registration set  
36 forth by the Department of Regulatory Affairs.
- 37 (2) Staff not regulated under DORA shall, at a minimum, meet the following  
38 requirements.
- 39 Speech-language pathologists shall:
- 40 (a) Possess a current Certificate of Clinical Competence in speech  
41 pathology or audiology granted by the American Speech-  
42 Language-Hearing Association, or

1 (b) Meet the educational requirements for certification and be in the  
2 process of accumulating the supervised experience required for  
3 certification.

4 An occupational therapy assistant shall, at a minimum, possess a current  
5 certification from the National Board for Certification of Occupational  
6 Therapy (NBOT).

7 Physical therapy assistants shall:

8 (a) Have graduated from a two-year college-level program approved  
9 by the American Physical Therapy Association; and

10 (b) Have at least one year of directly supervised physical therapy  
11 assistant experience.

12 **Independent living skills trainers shall:**

13 (a) Be a health care professional with one year of experience in  
14 providing functionally based assessment and skills training of  
15 individuals with disabilities; or

16 (b) Be an individual with a bachelor's degree and two years of  
17 similar experiences; or

18 (c) Be an individual with an AA degree in social service or human  
19 relations area with three years of experience; or

20 (d) Hold certification as a Certified Brain Injury Specialist by the  
21 American Academy for the Certification of Brain Injury  
22 Specialists.

23 An X-ray technician shall:

24 (a) Have successfully completed a program of formal training in X-  
25 ray technology of not less than 24 months in a school approved  
26 by the Committee on Allied Health Education and Accreditation  
27 of the American Medical Association or by the American  
28 Osteopathic Association, or

29 (b) Have earned a bachelor's or associate degree in radiological  
30 technology from an accredited college or university.

31 A phlebotomist shall:

32 (a) At a minimum, have successfully completed an approved  
33 phlebotomy training course or equivalent experience through  
34 previous employment and have two years of verifiable  
35 phlebotomy experience.

36 (C) Training

37 (1) Ongoing training shall be provided to all direct care staff. Training  
38 requirements shall be consistent with the program, services and

- 1 equipment it provides and are appropriate to the needs of the  
2 populations served.
- 3 (2) Training shall consist of at least 12 hours every 12 months after the  
4 starting date of employment or calendar year as designated by agency  
5 policy. The training requirement shall be prorated in accordance with the  
6 number of months the employee was actively working for the agency.  
7 Training shall include, but is not limited to, the following items:
- 8 (a) Promoting consumer dignity, independence, self-determination,  
9 privacy, choice and rights; including abuse and neglect  
10 prevention and reporting requirements.
- 11 (b) Behavior management techniques.
- 12 (c) Disaster and Emergency procedures.
- 13 (d) Infection control including universal precautions.
- 14 (3) All training shall be documented. Classroom type trainings shall be  
15 documented with the date of the training; starting and ending times;  
16 instructors and their qualifications; short description of content; and staff  
17 member's signature. On-line or self-study trainings shall be documented  
18 with information as to the content of the training; and the entity that  
19 offered or produced the training. All training documentation shall show  
20 the employee understood and properly applied the training presented.

## 21 7.9 Initial and Comprehensive Assessments

- 22 (A) Initial assessment visit
- 23 (1) A registered nurse shall conduct an initial assessment visit to determine  
24 the immediate care and support needs of the consumer. The initial  
25 assessment visit shall be held either within 48 hours of referral, or within  
26 48 hours of the consumer's return home, or on the attending provider  
27 ordered start of care date.
- 28 (2) When an alternate professional healthcare service is the only service  
29 ordered, the initial assessment visit may be made by the appropriate  
30 skilled healthcare professional.
- 31 (B) Comprehensive Assessment of Consumers
- 32 (1) The HCA shall provide to each of its consumers an individualized  
33 comprehensive assessment that accurately reflects the consumer's  
34 current health status and includes information that may be used to  
35 demonstrate the consumer's progress toward achievement of the desired  
36 outcomes.
- 37 (2) The comprehensive assessment shall identify the consumer's continuing  
38 need for home care and meet the consumer's medical, nursing,  
39 rehabilitative, social, and discharge planning needs.

- 1 (3) The comprehensive assessment shall be completed in a timely manner,  
 2 consistent with the consumer's immediate needs, but no later than five  
 3 calendar days after the start of care.
- 4 (4) Except as otherwise indicated in this section, a registered nurse shall  
 5 complete the comprehensive assessment.
- 6 (5) When a healthcare service other than nursing is the only service ordered  
 7 by the physician, the primary professional healthcare worker may  
 8 complete the comprehensive assessment.
- 9 (6) The comprehensive assessment shall include a review of all medications  
 10 the consumer is currently using in order to identify any potential adverse  
 11 effects and drug reactions, including ineffective drug therapy, significant  
 12 side effects, significant drug interactions, duplicate drug therapy, and  
 13 noncompliance with drug therapy.
- 14 (a) The HCA shall report any concerns to the attending physician,  
 15 and the director of nursing and these reports shall be acted  
 16 upon.
- 17 (7) The comprehensive assessment shall be updated and revised as  
 18 frequently as the consumer's condition warrants due to a major decline  
 19 or improvement in the consumer's health status, but not less frequently  
 20 than:
- 21 (a) A minimum of every 60 days beginning with the start-of-care  
 22 date; and
- 23 (b) Within 48 hours of the consumer's return to the home from a  
 24 hospital admission of 24 hours or more for any reason other than  
 25 diagnostic tests.
- 26 (C) Provision of skilled services
- 27 (1) The HCA shall have written policies regarding nurse delegation. The  
 28 policy shall delineate what tasks or procedures may or may not be  
 29 delegated, the delegation process, documentation, and how the delegate  
 30 shall be supervised in accordance with state regulation. If the HCA  
 31 prohibits delegation, there shall be a policy that directs such prohibition.

## 32 7.10 Plan of Care

- 33 (A) Care follows a written plan of care established and periodically reviewed by a  
 34 doctor of medicine, osteopathy, or podiatric medicine. Care plans established by  
 35 a nurse practitioner or physician assistant may be accepted by an HCA that is  
 36 not federally certified as a home health agency.
- 37 (1) The plan of care shall be developed in consultation with the agency staff  
 38 and covers all pertinent diagnoses, including mental status, types of  
 39 services, identification of any services furnished by other providers and  
 40 how those services are coordinated, equipment required, frequency and  
 41 duration of visits, prognosis, rehabilitation potential, functional limitations,  
 42 activities permitted, instructions for timely discharge or referral, and any  
 43 other appropriate items.

- 1 (a) The plan of care shall identify the consumer's continuing need  
2 for home care and meet the consumer's medical, nursing,  
3 rehabilitative, social, and discharge planning needs.
- 4 (b) The plan of care reflects the participation of the consumer to the  
5 extent possible. The HCA communicates the plan of care to the  
6 consumer/caregiver in a comprehensible way.
- 7 (B) If a physician or intermediate care provider refers a consumer under a plan of  
8 care that cannot be completed until after an evaluation visit, the attending  
9 physician or attending intermediate care provider shall be consulted to approve  
10 additions or modifications to the original plan. Orders for therapy services shall  
11 include the specific procedures and modalities to be used and the amount,  
12 frequency, and duration. The therapist, other agency personnel, and external  
13 home care providers (where applicable) shall participate in developing the plan of  
14 care.
- 15 (C) The total plan of care shall be reviewed by the attending physician or attending  
16 intermediate care provider and HCA personnel as often as the severity of the  
17 consumer's condition requires, but at least once every 60 days or more  
18 frequently when there is a significant change in condition.
- 19 (D) Agency professional staff shall promptly alert the physician or attending  
20 intermediate care provider to any changes that suggest a need to alter the plan  
21 of care.
- 22 (E) If person-to-person contact was not completed or if awaiting return response, all  
23 contacts and interactions shall be documented. The agency shall have a written  
24 policy regarding how the agency will intervene if the attending care provider  
25 cannot be contacted or does not respond timely.
- 26 (1) All orders shall contain sufficient information to carry out the order, name  
27 of the physician, intermediate care provider, and if appropriate,  
28 representative conferring the order to the HCA.

## 29 7.11 Medication Management

- 30 (A) If the plan of care includes medication administration, medication management or  
31 medication set-up, there shall be documentation as to who is responsible to  
32 monitor the medication supply, order refills, and ensure the timely delivery of  
33 medications. There shall be evidence that the plan has been developed with  
34 input from the consumer.
- 35 (1) Medication review shall be documented when new medications are  
36 prescribed.
- 37 (2) Medical review shall be documented periodically throughout the episode  
38 of care to determine if the consumers has added or eliminated  
39 medications or herbal products from the medication regime.
- 40 (B) Drugs and treatments shall be administered by agency staff only as order by the  
41 physician or intermediate care provider and in accordance with professional  
42 standards of practice.

- 1 (1) Influenza and pneumococcal polysaccharide vaccines may be  
 2 administered per agency policy developed in consultation with a  
 3 physician and after an assessment for contraindications.
- 4 (2) For consumers receiving medication administration services, a current  
 5 medication administration record shall be maintained.
- 6 (3) The health professional administering medication shall monitor for  
 7 effectiveness, interactions and adverse effects.
- 8 (C) If controlled drugs are being administered by the agency, there shall be a policy  
 9 regarding how the drugs will be administered and monitored.
- 10 (1) Agencies shall have a written policy stating how controlled drugs will be  
 11 monitored if agency staff transports the drugs from the pharmacy to the  
 12 consumer.

### 13 7.12 Coordination

- 14 (A) Case conferences shall be held at least every 60 days on each consumer and at  
 15 least every 30 days for cases where there is more than one agency sharing the  
 16 provision of the same home health services. The minutes of these case  
 17 conferences shall reflect discussion and input by all the disciplines providing care  
 18 to the consumer. [Moved from previous "Care and Services" section]
- 19 (B) The HCA shall be responsible for the coordination of consumer services both  
 20 with internal staff and external services providing care and services to the same  
 21 consumer. All personnel furnishing services maintain liaison to ensure that their  
 22 efforts are coordinated effectively and support the objectives outlined in the plan  
 23 of care and as delineated through outside home care services.
- 24 (C) The clinical record, care coordination notes or minutes of case conferences  
 25 establish that effective interchange, reporting, and coordination of consumer care  
 26 does occur.
- 27 (D) A written summary report for each consumer shall be documented and sent to  
 28 the attending primary care provider at least every 60 days.

### 29 7.13 Extended Care

- 30 Extended Care is defined as six or more hours of home health services provided in a 24-  
 31 hour period, by a licensed agency that provides skilled health services.
- 32 (A) The agency shall have a contingency plan regarding how the case is managed if  
 33 a scheduled employee is unable to staff the case.
- 34 (B) A communication record shall also be maintained in the home if a consumer is  
 35 receiving skilled extended care.
- 36 (1) The record shall contain:
- 37 (a) The current plan of treatment,
- 38 (b) Notes, containing consumer status and continuing needs.

- 1 (c) Medication administration record; and
- 2 (d) Any other information deemed necessary by the licensed
- 3 agency.
- 4 (2) If extended care certified nurse aide service is the only service being
- 5 provided, a home communication record is not required. Written
- 6 instructions shall be maintained in the home and in the permanent
- 7 record.
- 8 (C) The agency shall have an orientation plan for the staff providing the care to the
- 9 consumers. Since extended care cases may involve highly technical services,
- 10 this plan shall reflect how the agency ensures that the individuals providing the
- 11 extended care are qualified to provide these types of services.
- 12 (D) Contracting for Extended Care Services
- 13 (1) A licensed home health agency may contract with another entity to
- 14 provide extended care in the licensed agency's service area provided
- 15 that administration, care and supervision down to the consumer care
- 16 level is ultimately the responsibility of the primary agency.
- 17 (2) The contract shall be in conformance with section 6.18 of this Chapter.
- 18 (3) The contracted staff shall have completed the agency orientation and
- 19 competency appraisal for provisions of care and services for the
- 20 extended care consumer. Staff credentialing, orientation, and
- 21 competency appraisal documentation shall be kept at the primary
- 22 agency.
- 23 (E) Prior to withdrawing skilled nursing or certified nurse aide services for an
- 24 extended care consumer, the home health agency shall:
- 25 (1) Show continuing and documented efforts to resolve conflicts unless the
- 26 safety of staff is placed at immediate risk;
- 27 (2) Provide evidence that ongoing efforts were made to recruit staff or place
- 28 with another agency; and
- 29 (3) Give the consumer or authorized representative 30 days notice, in
- 30 writing, of the intent to discharge the consumer unless staff or
- 31 consumer's safety is at immediate risk.

#### 32 7.14 Skilled Nursing Services

- 33 (A) The registered nurse shall be responsible for the following:
- 34 (1) The initial evaluation visit,
- 35 (2) Regularly reevaluating the consumer's nursing needs,
- 36 (3) Initiating the plan of care and necessary revisions,
- 37 (4) Furnishing those services requiring substantial and specialized nursing
- 38 skill,

- 1 (5) Initiating appropriate preventive and rehabilitative nursing procedures,  
2 (6) Preparing clinical notes, coordinating services, and informing the  
3 physician and other personnel of changes in the consumer's condition  
4 and needs,  
5 (7) Counseling the consumer and family in meeting nursing and related  
6 needs, and  
7 (8) Participating in in-service programs, and supervising and teaches other  
8 nursing personnel.

9 (B) The licensed practical nurse shall be responsible for the following:

- 10 (1) Furnishing services in accordance with agency policies,  
11 (2) Preparing clinical notes,  
12 (3) Assisting the physician, intermediate care provider and registered nurse  
13 in performing specialized procedures.  
14 (4) Preparing equipment and materials for treatments, observing aseptic  
15 technique as required, and  
16 (5) Assisting the consumer in learning appropriate self-care techniques.

#### 17 7.15 Nurse Aide Services

18 (A) The agency shall select certified nurse aides on the basis of such factors as the  
19 ability to read, write, carry out directions, and effectively communicate to  
20 demonstrate competency in the provision of services and care safely and  
21 effectively; and to treat consumers with dignity and respect to person and  
22 property.

23 (B) The agency shall ensure that each nurse aide it employs is certified by the  
24 Department of Regulatory Agencies within four months of starting employment.  
25 Certification shall be attained within one year of completion of an approved nurse  
26 aide program and shall remain current. A complete competency assessment  
27 with direct observation shall be completed before employment in accordance with  
28 section 7.16 of this Chapter. Each aide providing care and services without  
29 benefit of certification shall be supervised in the home by direct observation at  
30 least weekly for the first month of employment and every two weeks thereafter.

31 (C) For all consumers who are receiving skilled care and need certified nurse aide  
32 services, the supervising healthcare professional shall, during supervisory visits,  
33 accomplish the following:

34 (1) Obtain the consumer's input, or that of the consumer's authorized  
35 representative, regarding the certified nurse aide assignment form,  
36 including all tasks to be performed during each scheduled time period.

37 (a) Details such as, but not limited to, housekeeping duties and  
38 standby assistance, shall be negotiated and included on the  
39 certified nurse aide assignment form so that all obligations and  
40 expectations are clear.

1 (b) The certified nurse aide assignment form shall contain  
2 information regarding special functional limitations and needs,  
3 safety considerations, special diets, special equipment, and any  
4 other information that is pertinent to the care that will be given by  
5 the aide.

6 (c) The HCA shall ensure that the consumer or the consumer's  
7 designated representative approves and signs the form and is  
8 provided a copy at the beginning of services and at least once  
9 per year thereafter.

10 (d) Provide each consumer and/or the consumer's authorized  
11 representative with a new copy of the consumer rights form and  
12 explain those rights whenever the home health/nurse aide  
13 assignment form is renegotiated and rewritten.

14 (e) The supervising health care professional, in accordance with the  
15 professional's scope of practice and state and federal law, shall  
16 make an on-site supervisory visit to the consumer's home no  
17 less frequently than every two weeks to supervise the certified  
18 nurse aide. Direct observation of care being provided by the  
19 nurse aide shall occur at least every 60 days. More frequent  
20 direct supervision shall occur if there are adverse changes in the  
21 consumer's condition, complaints received associated with the  
22 provision of care by an aide, supervision requested by the CNA  
23 or consumer for specific issues, or other matters concerning the  
24 provisions of care by the CNA.

25 (f) If nurse aide services are provided to a consumer who is not  
26 receiving in-home care by a health professional, a supervisory  
27 visit with the nurse aide present at the consumer's home shall  
28 occur no less frequently than every 60 days. More frequent  
29 direct supervision shall occur if there are adverse changes in the  
30 consumer's condition, complaints received associated with the  
31 provision of care by an aide, supervision requested by the CNA  
32 or consumer for specific issues, or other matters concerning the  
33 provisions of care by the CNA.

#### 34 7.16 Certified Nurse Aide Training and Orientation

35 (A) The HCA shall ensure that skills learned or tested elsewhere can be transferred  
36 successfully to the care of the consumer in his/her place of residence. This  
37 review of skills could be done when the nurse installs an aide into a new  
38 consumer care situation, during a supervisory visit, or as part of the annual  
39 performance review. A mannequin may not be used for this evaluation.

40 (B) If the HCA's admission policies and the case-mix of HCA consumers demand  
41 that the aide care for individuals whose personal care and basic nursing or  
42 therapy needs require more complex training than the minimum required in the  
43 regulation, the HCA shall document how these additional skills are taught and  
44 validated.

45 (C) The HCA shall establish a process for standardized, step-by-step observation  
46 and evaluation of certified nurse aide competency in the following subject areas  
47 at the time of initial hire. Tasks requiring direct contact with a consumer may be

- 1 competency tested at any time prior to the assignment of tasks and include items  
2 (3), (9), (10) and (11) as set forth below:
- 3 (1) Communications skills.
- 4 (2) Observation, reporting and documentation of consumer status and the  
5 care or service furnished.
- 6 (3) Reading and recording temperature, pulse, and respiration.
- 7 (4) Basic infection control procedures.
- 8 (5) Basic elements of body functioning and changes in body function that  
9 shall be reported to an aide's supervisor.
- 10 (6) Maintenance of a clean, safe, and healthy environment.
- 11 (7) Recognizing emergencies and knowledge of emergency procedures.
- 12 (8) The physical, emotional, and developmental needs of and ways to work  
13 with the populations served by the HCA, including the need for respect  
14 for the consumer, his or her privacy and property.
- 15 (9) Appropriate and safe techniques in personal hygiene and grooming that  
16 include:
- 17 (a) Bathing
- 18 (i) Bed/sponge,
- 19 (ii) Tub, and
- 20 (iii) Shower.
- 21 (b) Shampoo
- 22 (i) Sink,
- 23 (ii) Tub, and
- 24 (iii) Bed.
- 25 (c) Nail and skin care.
- 26 (d) Oral hygiene.
- 27 (e) Toileting and elimination.
- 28 (10) Safe transfer techniques and ambulation.
- 29 (11) Normal range of motion and positioning.
- 30 (12) Adequate nutrition and fluid intake.

- 1 (D) Written assignment and instructions for the certified nurse aide (CNA) shall be  
2 prepared by the registered nurse or other appropriate professional who is  
3 responsible for the supervision of the CNA.
- 4 (1) The CNA is assigned and instructed to provide only those services the  
5 aide is permitted to perform under state law and deemed competent to  
6 perform.
- 7 (2) The written assignment reflects the consumer's plan of care orders.
- 8 (3) The written instructions of the assignment shall consider the skills of the  
9 CNA, the amount and kind of supervision needed, and the specific  
10 nursing or therapy needs of the consumer.
- 11 (a) The written instructions shall detail the procedures for the  
12 consumer's unique care needs.
- 13 (b) The written instructions shall identify when the CNA should  
14 report to the supervising professional.
- 15 (4) The written assignment and instructions shall be reviewed every 60 days  
16 or more frequently as changes in the consumer's status and needs  
17 occur.

#### 18 7.17 Therapy Services

19 (A) Any therapy services offered by the HCA directly or under arrangement are given  
20 by a qualified therapist or by a qualified therapy assistant under the supervision  
21 of a qualified therapist and in accordance with the plan of care. The qualified  
22 therapist assists the physician or intermediate care provider in evaluating level of  
23 function, helps develop the plan of care (revising it as necessary), prepares  
24 clinical notes, advises and consults with the family and other agency personnel,  
25 and participates in in-service programs.

#### 26 (B) Supervision of therapy assistants

- 27 (1) A physical therapy assistant, occupational therapy assistant or  
28 respiratory therapy assistant performs services directed from a written  
29 plan of care, delegated, and supervised by a qualified therapist, assists  
30 in preparing clinical notes and progress reports, and participates in  
31 educating the consumer and family, and participates in in-service  
32 programs. Onsite supervision shall occur at least once every 30 days  
33 and at least every 60 days with the assistant present.
- 34 (2) Speech therapy services shall be furnished only by a qualified speech  
35 pathologist or audiologist.

#### 36 7.18 Medical Social Services

37 (A) If the agency furnishes medical social services, those services shall be given by  
38 a qualified social worker in accordance with the plan of care.

39 (B) The social worker shall be responsible for the following:

- 1 (1) Assisting the physician, or intermediate care provider and other team  
 2 members in understanding the significant social and emotional factors  
 3 related to the health problems,
- 4 (2) Participating in the development of the plan of care,
- 5 (3) Preparing clinical ~~and progress~~ notes,
- 6 (4) Working with the family,
- 7 (5) Using appropriate community resources,
- 8 (6) Participating in discharge planning and in-service programs, and
- 9 (7) Acting as a consultant to other agency personnel.

10 7.19 Other Health Care Services

- 11 (A) Any health care services offered by the HCA directly or under arrangement are  
 12 given by a qualified healthcare professional or by qualified healthcare  
 13 professional assistant under the supervision of a qualified healthcare  
 14 professional and in accordance with the plan of care. The qualified healthcare  
 15 professional assists the physician or intermediate care provider in evaluating the  
 16 needs of the consumer, helps develop the plan of care (revising it as necessary),  
 17 prepares clinical notes, advises and consults with the family and other agency  
 18 personnel, and participates in in-service programs.
- 19 (B) Supervision of assistants
- 20 (1) An assistant to the healthcare professional performs services directed  
 21 from a written plan of care, delegated, and supervised by a qualified  
 22 health professional, assists in preparing clinical notes and progress  
 23 reports, and participates in educating the consumer and family, and  
 24 participates in in-service programs. Onsite supervision shall occur in  
 25 accordance with policy and procedure, the plan of care and professional  
 26 standards of practice.

27 **Section 8 – Non-Medical/Personal Care**

28 8.1 Governing Body

- 29 (A) Each agency shall have a governing body having legal authority and  
 30 responsibility for the conduct of the agency. At least one member shall have  
 31 knowledge of agency operations.
- 32 (B) For the purposes of this section, the governing body shall:
- 33 (1) Have bylaws or the equivalent, which shall be reviewed and be revised  
 34 as needed.
- 35 (2) The bylaws or the equivalent shall specify the objectives of the agency.
- 36 (3) Designate and employ an agency manager.

- 1 (4) Adopt, review annually and revise as needed, policies and procedures  
2 for the operation and administration of the agency.
- 3 (5) Review the operation of the agency at least annually.
- 4 (6) Keep minutes of all meetings.
- 5 (7) Provide and maintain a fixed office location, that provides for consumer  
6 confidentiality and a safe working environment.
- 7 8.2 Administration
- 8 (A) The agency shall have written administrative policies and procedures to ensure  
9 safe and adequate care of the consumer.
- 10 (B) The agency shall show evidence of either liability insurance coverage or a surety  
11 bond in lieu of liability insurance coverage in the amount of at least one hundred  
12 thousand dollars (\$100,000) per occurrence, three hundred thousand dollars  
13 (\$300,000) aggregate. Such coverage shall be maintained for the duration of the  
14 license period.
- 15 8.3 Agency Manager
- 16 (A) A personal care services agency shall designate a person to supervise the  
17 provision of services through the licensed home care personal services agency.
- 18 (B) The agency manager shall meet the following qualifications:
- 19 (1) Be at least 21 years of age, possess a high school diploma or GED, at  
20 least one year documented supervisory experience in the provision of  
21 personal care services.
- 22 (2) Be able to communicate and understand return communication  
23 effectively in exchanges between the consumer, family representatives,  
24 and other providers.
- 25 (3) Have successfully completed a ~~20~~ 8-hour agency manager-training  
26 course. Additional related annual training that equals 12 hours shall be  
27 required.
- 28 (a) Any person commencing service as an agency manager after  
29 January 1, 2011, shall meet the minimum training requirements  
30 approved by the department pursuant to section 8.3(D) of this  
31 Chapter; or provide documented and confirmed previous job  
32 related experience or related education equivalent to successful  
33 completion of such program. The department may require  
34 additional training to ensure that all the required components of  
35 the training curriculum are met.
- 36 (b) A copy of the Certificate of Completion shall be retained in the  
37 agency manager's personnel file.
- 38 (c) Any person already serving as an agency manager on  
39 December 31, 2010 shall either meet subparagraph (3) above or

- 1 meet the minimum training requirements in one of the following  
2 ways:
- 3 (i) Successful completion of a program approved by the  
4 department, pursuant to Section 8.3(D) of this Chapter if  
5 completed within a period of six (6) months following  
6 January 1, 2011;
- 7 (ii) Submission of evidence of successful completion of  
8 such training within the previous five (5) years before  
9 January 1, 2011; or
- 10 (iii) Documented and confirmed previous job related  
11 experience equivalent to successful completion of such  
12 a program that encompasses the items in section  
13 8.3(D)(2) of this Chapter.
- 14 (4) Be familiar with all applicable local, state, and federal laws and  
15 regulations concerning the operation and provision of home care  
16 services.
- 17 (C) The agency manager shall be responsible for ensuring:
- 18 (1) The agency is in compliance with all applicable federal, state and local  
19 laws,
- 20 (2) Completion, maintenance and submission of such reports and records as  
21 required by the department,
- 22 (3) Ongoing liaison with the governing body, staff members and the  
23 community,
- 24 (4) A current organizational chart to show lines of authority down to the  
25 consumer level,
- 26 (5) Appropriate personnel, financial and administrative records and policies  
27 and procedures of the agency,
- 28 (6) Orientation of new staff, regularly scheduled in-service education  
29 programs and opportunities for continuing education for the staff,
- 30 (7) Designation in writing the qualified staff member to act in the absence of  
31 the manager, and
- 32 (8) Availability of the manager or designee at all hours employees are  
33 providing services.
- 34 (9) All marketing, advertising and promotional information accurately  
35 represent the HCA and address the care, treatment and services that the  
36 HCA can provide directly or through contractual arrangement.
- 37 (D) An agency manager training program shall be approved by the department if:
- 38 (1) The program or program components are conducted by an accredited  
39 college, university or vocational school; or an organization, association,

- 1 corporation, group, or agency with specific expertise in that area; and the  
2 curriculum includes at least eight (8) actual hours of training.
- 3 (2) Instruction includes, at a minimum, discussion of each the following  
4 topics:
  - 5 (a) Home care overview including other agency types providing  
6 services and how to interact and coordinate with each including  
7 limitations of personal care versus health care services.
  - 8 (b) Regulatory responsibilities and compliance including, but not  
9 limited to,
    - 10 (i) Consumer rights,
    - 11 (ii) Governing body responsibilities,
    - 12 (iii) Quality management plans,
    - 13 (iv) Occurrence reporting, and
    - 14 (v) Complaint investigation and resolution process.
  - 15 (c) Personnel qualifications, experience, competency and  
16 evaluations, staff training and supervision.
  - 17 (d) Needs of the fragile, ill and physically and cognitively disabled in  
18 the community setting regarding special training and staffing  
19 considerations,
  - 20 (e) Behavior management techniques

21 8.4 Supervisor

- 22 (A) The supervisor shall:
  - 23 (1) Be at least 18 years of age,
  - 24 (2) Have appropriate experience in the home care industry or closely related  
25 personal care services in accordance with agency policy, and
  - 26 (3) Have completed training in the provision of non-medical home care.

27 8.5 Personal Care Worker

- 28 (A) A personal care worker shall have completed agency training or have verified  
29 experience in the provision of home care tasks to consumers and passed a  
30 competency evaluation.
- 31 (B) Personal care service employees shall provide services in accordance with the  
32 policies and requirements of the agency as well as the service arrangements  
33 spelled out in the consumer contract or consumer specific assignment sheet.
- 34 (C) The duties of personal care worker may include the following:

- 1 (1) Observation and maintenance of the home environment that ensures the  
2 safety and security of the consumer.
- 3 (2) Assistance with household chores including cooking and meal  
4 preparation, cleaning, and laundry.
- 5 (3) Assistance in completing activities such as shopping, and appointments  
6 outside the home.
- 7 (4) Companionship, including but not limited to social interaction,  
8 conversation, emotional reassurance, and encourage reading, writing  
9 and activities that stimulate the mind.
- 10 (5) Assistance with activities of daily living and personal care.
- 11 (6) Completion of appropriate ~~encounter~~ service notes regarding service  
12 provision each visit. Documentation shall contain services provided,  
13 date and time in and out and a confirmation that care was provided.  
14 Such confirmation shall be according to agency policy.
- 15 **(D)** In order to delineate the types of services that can be provided by a personal  
16 care service worker, the following are examples of limitations where skilled home  
17 health care would be needed to meet higher needs of the consumer.
- 18 (1) Skin Care. A personal care worker may perform general skin care  
19 assistance. Skin care may be performed by a personal care service  
20 worker only when skin is unbroken, and when any chronic skin problems  
21 are not active. The skin care provided by a personal care worker shall  
22 be preventative rather than therapeutic in nature and, may include the  
23 application of non-medicated lotions and solutions, or of lotions and  
24 solutions not requiring a physician's prescription. Skilled skin care shall  
25 be provided by an agency licensed to provide home health services.  
26 Skilled skin care includes wound care other than basic first aid, dressing  
27 changes, application of prescription medications, skilled observation and  
28 reporting.
- 29 (2) Ambulation. A personal care worker may generally assist consumers  
30 with ambulation who have the ability to balance and bear weight. If the  
31 consumer has been determined by a health professional to be  
32 independent with an assistive device, a personal services worker may be  
33 assigned to assist with ambulation.
- 34 (3) Bathing. A personal care worker may assist consumers with bathing.  
35 When a consumer has skilled skin care needs or skilled dressings that  
36 will need attention before, during or after bathing, the consumer should  
37 be in the care of an agency licensed to provide home health services.
- 38 (4) Dressing. A personal care worker may assist a consumer with dressing.  
39 This may include assistance with ordinary clothing and application of  
40 support stockings of the type that can be purchased without a physician's  
41 prescription. A personal care service worker may not assist with  
42 application of an Ace bandage and anti-embolic or pressure stockings  
43 that can be purchased only with a physician's prescription.

- 1 (5) Exercise. A personal care worker may assist a consumer with exercise.  
2 However, this does not include assistance with a plan of exercise  
3 prescribed by a licensed health care professional. A worker may remind  
4 the consumer to perform ordered exercise program. Assistance with  
5 exercise that can be performed by a personal care service worker is  
6 limited to the encouragement of normal bodily movement, as tolerated,  
7 on the part of the consumer and, encouragement with a prescribed  
8 exercise program. Passive range of motion (ROM) may not be  
9 performed by a personal care worker.
- 10 (6) Feeding. Assistance with feeding may generally be performed by a  
11 personal service worker. Personal care workers can assist consumers  
12 with feeding when the consumer can independently chew and swallow  
13 without difficulty and be positioned upright. Assistance by a personal  
14 care worker does not include syringe, tube feedings and intravenous  
15 nutrition. Whenever there is a high risk that the consumer may choke as  
16 a result of the feeding the consumer should be in the care of an agency  
17 licensed to provide home health services.
- 18 (7) Hair care. As a part of the broader set of services provided to  
19 consumers who are receiving personal services, personal care service  
20 agencies may assist consumers with the maintenance and appearance  
21 of their hair. Hair care within these limitations may include shampooing  
22 with non-medicated shampoo or shampoo that does not require a  
23 physician's prescription, drying, combing and styling of hair.
- 24 (8) Mouth care. A personal care worker may assist and perform mouth care.  
25 This may include denture care and basic oral hygiene. Mouth care for  
26 consumers who are unconscious, has difficulty swallowing or at risk for  
27 choking and aspiration should be performed by an agency licensed to  
28 provide home health services.
- 29 (9) Nail care. Assistance with nail care can be generally performed by a  
30 personal care worker. This assistance may include soaking of nails,  
31 pushing back cuticles without utensils, and filing of nails. Assistance by  
32 a personal care worker may not include nail trimming. Consumers with a  
33 medical condition that might involve peripheral circulatory problems or  
34 loss of sensation should be under the care of an agency licensed to  
35 provide home health services to meet this need.
- 36 (10) Positioning. A personal care worker may assist a consumer with  
37 positioning when the consumer is able to identify to the personal care  
38 staff, verbally, non-verbally or through others, when the positions needs  
39 to be changed AND only when skilled skin care, as previously described,  
40 is not required in conjunction with the positions. Positioning may include  
41 simple alignment in a bed, wheelchair, or other furniture.
- 42 (11) Shaving. A personal care worker may assist a consumer with shaving  
43 only with an electric or a safety razor.
- 44 (12) Toileting. A personal care worker may assist a consumer to and from  
45 the bathroom, provide assistance with bedpans, urinals, and commodes;  
46 pericare; or changing of clothing and pads of any kind used for the care  
47 of incontinence.

- 1 (13) A personal care worker may empty urinary collection devices, such as  
2 catheter bags. In all cases, the insertion and removal of catheters and  
3 care of external catheters is considered skilled care and may NOT be  
4 performed by a personal care service worker.
- 5 (14) A personal care worker may empty ostomy bags and provide assistance  
6 with other consumer-directed ostomy care only when there is no need for  
7 skilled skin care or for observation or reporting to a nurse. An in-home  
8 personal care worker may not perform digital stimulation, insert  
9 suppositories or give an enema.
- 10 (15) Transfers. A personal care worker may assist with transfers only when  
11 the consumer has sufficient balance and strength to reliably stand and  
12 pivot and assist with the transfer to some extent. Adaptive and safety  
13 equipment may be used in transfers, provided that the consumer and  
14 personal care ~~service~~ worker is fully trained in the use of the equipment  
15 and can direct the transfer step by step. Adaptive equipment may  
16 include, but is not limited to wheel chairs, tub seats and grab bars. Gait  
17 belts may be used in a transfer as a safety device for the personal care  
18 service worker as long as the worker has been properly trained in its use.
- 19 (a) A personal care worker shall not perform assistance with  
20 transfers when the consumer is unable to assist with the transfer.  
21 Personal care workers, with training and demonstrated  
22 competency, may assist a consumer in a transfer involving a lift  
23 device.
- 24 (b) A personal care worker may assist the informal caregiver with  
25 transferring the consumer provided the consumer is able to  
26 direct and assist with the transfer.
- 27 (16) Medication reminding. A personal care worker may assist a consumer  
28 with medication reminding only when medications have been  
29 preselected, by the consumer, a family member, a nurse, or a  
30 pharmacist, and are stored in containers other than the prescription  
31 bottles, such as medication minders. Medication minder containers shall  
32 be clearly marked as to day and time of dosage, and reminding includes:  
33 inquiries as to whether medications were taken; verbal prompting to take  
34 medications; handing the appropriately marked medication minder  
35 container to the consumer; and, opening the appropriately marked  
36 medication minder container for the consumer if the consumer is  
37 physically unable to open the container. These limitations apply to all  
38 prescription and all over-the-counter medications. Any irregularities  
39 noted in the pre-selected medications, such as medications taken too  
40 often or not often enough, or not at the correct time as marked in the  
41 medication minder container, shall be reported immediately by the  
42 personal care service worker to the supervisor.
- 43 (17) Respiratory care is considered skilled care and may NOT be performed  
44 by a personal care worker. Respiratory care includes postural drainage,  
45 cupping, adjusting oxygen flow within established parameters, nasal,  
46 endotracheal, and tracheal suctioning.
- 47 (a) Personal care workers may temporarily remove and replace a  
48 cannula or mask from the consumer's face for the purposes of  
49 shaving, washing a consumer's face.

- 1 (b) Personal care workers may set a consumer's oxygen flow  
2 according written instruction when changing tanks, provided the  
3 personal care worker has been specifically trained and  
4 demonstrated competency for this task.
- 5 (18) Accompaniment. Accompanying the consumer to medical appointments,  
6 banking errands, basic household errands, clothes shopping, and  
7 grocery shopping to the extent necessary and as specified on the service  
8 plan may be performed by the personal care worker when all the care  
9 that is provided by the personal care staff in relation to the trip is  
10 unskilled personal care, as described in these regulations.
- 11 (19) Protective Oversight. A personal care worker may provide protective  
12 oversight including stand-by assistance with any personal care task  
13 described in these regulations. When the consumer requires protective  
14 oversight to prevent wandering, the personal care worker shall have  
15 been trained in appropriate intervention and redirection techniques.
- 16 (20) Respite Care and Companionship. A personal care worker may provide  
17 respite and companionship in the consumer's home according to the  
18 service plan as long as the necessary provision of services during this  
19 time does not include skilled personal care services as described in this  
20 regulation.
- 21 (21) Housekeeping Services. A personal care worker may provide  
22 housekeeping services, such as dusting, vacuuming, mopping, cleaning  
23 bathroom and kitchen areas, meal preparation, dishwashing, linen  
24 changes, laundry, and shopping in accordance with the service contract.  
25 Where meal preparation is provided, the personal care worker should  
26 receive instruction regarding any special diets required to be prepared.
- 27 (E) In addition to the exclusions prescribed in the preceding section, the agency shall  
28 not allow personal care workers to:
- 29 (1) Perform skilled personal care services as defined in this section;
- 30 (2) Perform or provide medication set-up for a consumer; or
- 31 (3) Perform other actions specifically prohibited by agency policy,  
32 regulations or law.
- 33 (F) Supervision of a personal care worker shall:
- 34 (1) Be performed by a qualified employee of the agency who is in a  
35 designated supervisory capacity and available to the worker for  
36 questions at all times;
- 37 (2) Provide on-site supervision at a minimum every three months and  
38 includes an assessment of consumer satisfaction with services and the  
39 personal care worker's adherence to the service plan.
- 40 (3) Include evaluation of each personal care worker providing services at  
41 least annually. The evaluation shall include observation of tasks  
42 performed and relationship with the consumer.

- 1 **8.6** Personal Care Worker Training
- 2 (A) All personal care staff shall complete agency orientation before independently  
3 providing services to consumers. Orientation shall include:
- 4 (1) Employee duties and responsibilities;
- 5 (2) A description of the services provided by the agency;
- 6 (3) The differences in personal care, CNA care and health care in the home  
7 including limiting factors for the provision of personal care;
- 8 (4) Consumer Rights including freedom from abuse or neglect, and  
9 confidentiality of consumer records, personal, financial and health  
10 information;
- 11 (5) Hand washing and infection control;
- 12 (6) Assignment and supervision of services;
- 13 (7) Observation, reporting and documentation of consumer status and the  
14 service furnished;
- 15 (8) Emergency response policies and emergency contact numbers for the  
16 agency and for the individual consumer assigned,
- 17 (9) Training and competency evaluation of appropriate and safe techniques  
18 in all personal care tasks for each assigned task to be conducted before  
19 completion of initial training.
- 20 (B) A minimum of 16 hours of training within the first 45 days of employment shall be  
21 provided, inclusive of orientation, which can include self-study courses with  
22 demonstration of learned concepts, and are applicable to the employee's  
23 responsibilities. Initial training shall include, but is not limited, to:
- 24 (1) Communication skills in areas such as with persons who are hard of  
25 hearing, have dementia, or other special needs.
- 26 (2) Appropriate training in accordance with the needs of special needs  
27 populations served by the agency including communication and behavior  
28 management techniques.
- 29 (3) Appropriate and safe techniques in all personal care tasks. Areas  
30 include bathing, skin care, hair care, nail care, mouth care, shaving,  
31 dressing, feeding, assistance with ambulation, exercises and transfers,  
32 positioning, bladder care, bowel care, medication reminding,  
33 homemaking tasks, and protective oversight.
- 34 (4) Recognizing emergencies and knowledge of emergency procedures  
35 including basic first aid, home and fire safety.
- 36 (5) The roles of, and coordination with, other community service providers.
- 37 (6) Maintenance of a clean, safe and healthy environment, including  
38 appropriate cleaning techniques and sanitary meal preparation.

- 1 (C) Initial orientation or training shall not be required under the following  
2 circumstances:
  - 3 (1) For returning employees that meet all of the following conditions:
    - 4 (a) The employee completed training and competency assessment  
5 required by this section by the employing agency at the time of  
6 initial employment, and
    - 7 (b) The employee had completed employment or became inactive  
8 no more that 12 months before the date of rehire or reactivation,  
9 and
    - 10 (c) The employee did not have direct care performance issues in the  
11 prior active period of employment, and
    - 12 (d) All orientation, training and personnel action documentation is  
13 retained in the personnel files.
  - 14 (2) Employees with proof of current healthcare related licensure or  
15 certification shall be exempt from initial training in the provision of  
16 personal care tasks if such training is recognized as included in the  
17 training for that health discipline. The agency shall provide orientation  
18 and perform a competency evaluation to ensure the employee is able to  
19 appropriately perform all personal care tasks.
  - 20 (3) Employees moving from one office to another in the same agency are  
21 not subject to the initial orientation and training requirements, provided  
22 previous training is documented and the offices have the same  
23 orientation and training procedures.
- 24 (D) The agency is responsible for ensuring that the individuals who furnish personal  
25 care services on its behalf are competent to carry out all assigned tasks in the  
26 consumer's place of residence. Proof of competency evaluation conducted by  
27 the agency manager or supervisor of the agency shall address each of the  
28 following subjects.
  - 29 (1) Performance and supervisory observation of personal care tasks for  
30 consumers including, but not limited to:
    - 31 (a) Bathing,
    - 32 (b) Skin care,
    - 33 (c) Hair care,
    - 34 (d) Nail care,
    - 35 (e) Mouth care,
    - 36 (f) Shaving,
    - 37 (g) Dressing,
    - 38 (h) Feeding,

- 1 (i) Assistance with ambulation,
- 2 (j) Exercise and transfers,
- 3 (k) Positioning,
- 4 (l) Bladder and bowel care, and
- 5 (m) Medication reminding.
- 6 (2) Performance of the ability to assist in the use of specific adaptive
- 7 equipment if the worker will be assisting consumers who use the device.
- 8 (E) The agency shall ensure that ongoing supervisory and direct care staff training
- 9 occurs and shall consist of at least 6 hours every 12 months after the starting
- 10 date of employment or calendar year as designated by agency policy. The
- 11 training requirement shall be prorated in accordance with the number of months
- 12 the employee was actively working for the agency. Training shall include, but is
- 13 not limited to, the following items:
  - 14 (1) Behavior management techniques and the promotion of consumer
  - 15 dignity, independence, self-determination, privacy, choice and rights;
  - 16 including abuse and neglect prevention and reporting requirements.
  - 17 (2) Disaster and emergency procedures.
  - 18 (3) Infection control using universal precautions.
  - 19 (4) Basic first aid and home safety.
- 20 (F) Training documentation
  - 21 (1) All training shall be documented. Training documentation shall show the
  - 22 employee understood and properly applied the training presented.
    - 23 (a) Classroom type trainings shall be documented with the date of
    - 24 the training; starting and ending times; instructors and their
    - 25 qualifications; short description of content; and staff member's
    - 26 signature.
    - 27 (b) On-line or self-study trainings shall be documented with
    - 28 information as to the content of the training and the entity that
    - 29 offered or produced the training.
- 30
- 31
- 32
- 33
- 34
- 35
- 36
- 37
- 38
- 39

1 **HCA RULES - DRAFT 6 - TABLE OF CONTENTS**

2 **Section 1 – Statutory Authority and Applicability .....1**

3 **Section 2 – General Provisions .....1**

4 **Section 3 – Definitions .....1**

5 **Section 4 – Placement Agencies .....4**

6     **4.1 Registration .....4**

7     **4.2 Criminal history record check .....4**

8     **4.3 Disclosures .....4**

9 **Section 5 – Department Oversight .....5**

10     **5.1 License Classification .....5**

11     **5.2 License Procedure ..... 5**

12     **5.3 Provisional licenses .....6**

13     **5.4 License Fees .....7**

14     **5.5 Inspections .....7**

15     **5.6 Plan of Correction .....8**

16     **5.7 Intermediate restrictions or conditions .....8**

17     **5.8 Revocation or suspension .....9**

18     **5.9 Summary suspension .....9**

19     **5.10 Civil fines .....10**

20 **Section 6 – General Requirements For All License Categories .....10**

21     **6.1 Out of State Entities .....10**

22     **6.2 Branch Offices .....10**

23     **6.3 Criminal History Record Check .....11**

24     **6.4 Consumer Rights .....11**

25     **6.5 Admissions .....14**

26     **6.6 Discharge Planning .....14**

27     **6.7 Disclosure Notice ..... 14**

28     **6.8 Non-compete agreements .....15**

1           6.9    Complaint Processing .....15

2           6.10   Agency Reporting Requirements .....15

3           6.11   Personnel Records and Policies .....16

4           6.12   Emergency Preparedness .....17

5           6.13   Coordination with External Home Care Agencies .....17

6           6.14   Quality Management Program .....18

7           6.15   Infection Control .....18

8           6.16   Employee Health – Communicable Disease Prevention .....18

9           6.17   Missed Visits .....18

10          6.18   Contracts .....19

11          6.19   Information Management System .....19

12          6.20   Consumer Record Content .....20

13          6.21   Residential Facilities .....20

14   **Section 7 – Skilled Care .....21**

15          7.1    Governing Body .....21

16          7.2    Administration .....22

17          7.3    Professional Advisory Committee.....23

18          7.4    Agency Evaluation .....23

19          7.5    Administrator.....24

20          7.6    Curriculum for Administrator Training.....26

21          7.7    Nursing or Healthcare Supervisor.....28

22          7.8    Personnel .....28

23          7.9    Initial and Comprehensive Assessments.....30

24          7.10   Plan of Care .....31

25          7.11   Medication Management.....32

26          7.12   Coordination .....33

27          7.13   Extended Care .....33

28          7.14   Skilled Nursing Services.....34

1           7.15   Nurse Aide Services.....35

2           7.16   Certified Nurse Aide Training and Orientation.....36

3           7.17   Therapy Services .....38

4           7.18   Medical Social Services .....38

5           7.19   Other Health Care Services .....39

6   **Section 8 – Non-Medical/Personal Care.....39**

7           8.1     Governing Body .....39

8           8.2     Administration .....40

9           8.3     Agency Manager.....40

10          8.4     Supervisor .....42

11          8.5     Personal Care Worker.....42

12          8.6     Personal Care Worker Training .....47

13

14

15