

1 **Health Facilities and Emergency Medical Services Division**

2 **6 CCR 1011-1**

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

5 **Section 1 – Statutory Authority and Applicability**

6 1.1 The statutory authority for the promulgation of these rules is set forth in Sections 25-1.5-  
7 103 and 25-27.5-101, *et seq.*, C.R.S.

8 1.2 A home care agency, as defined herein, shall comply with all applicable federal and state  
9 statutes and regulations, including but not limited to, the following:

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

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

13 **Section 2 – General Provisions**

14 2.1 The purpose of these rules is to implement Title 25, Article 27.5 of the Colorado Revised  
15 Statutes and to protect and promote the health and welfare of home care consumers  
16 through the establishment and enforcement of regulations setting minimum standards for  
17 home care services that does not infringe on accessibility or affordability while  
18 maintaining accountability to help ensure the safety and well-being of home care  
19 consumers.

20 2.2 These regulations incorporate by reference materials originally published elsewhere.  
21 Such incorporation does not include later amendments to or editions of the referenced  
22 material. The Department of Public Health and Environment maintains copies of the  
23 complete text of the incorporated materials for public inspection during regular business  
24 hours, and shall provide certified copies of the incorporated material at cost upon  
25 request. Information regarding how the incorporated material may be obtained or  
26 examined is available from:

27 Division Director  
28 Health Facilities and Emergency Medical Services Division  
29 Colorado Department of Public Health and Environment  
30 4300 Cherry Creek Drive South  
31 Denver, CO 80246  
32 Phone: 303-692-2800

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

36 **Section 3 - Definitions**

37 3.1 "Authorized representative" means an individual responsible for the private payment of  
38 home care services, or an individual who possesses written authorization from the  
39 consumer to represent his or her interests regarding care, treatment and services

- 1 provided by the HCA. The authorized representative shall not be the home care  
2 consumer's service provider except as allowed by state Medicaid programs.
- 3 3.2 "Branch office" means a location or site from which a home health agency provides  
4 services within a portion of the total geographic area served by the parent agency. The  
5 branch office is part of the home care agency and is located sufficiently close to share  
6 administration, supervision, and services in a manner that renders it unnecessary for the  
7 branch independently to meet the requirements of this Chapter.
- 8 3.3 "Bylaws" means a set of rules adopted by a Home Care Agency for governing the  
9 agency's operation.
- 10 3.4 "Certified Home Care Agency" means an agency that is certified by either the Federal  
11 Centers for Medicare and Medicaid Services (CMS) or the Colorado Department of  
12 Health Care Policy and Financing to provide skilled home health or personal care  
13 services.
- 14 ~~3.5 "Certified Nurse Aide," for purposes of this Chapter only, means a nurse aide certified by~~  
15 ~~the Department of Regulatory Agencies or a nurse aide who is within four (4) months of~~  
16 ~~completing the requisite training. [ Revised and moved to 3.14 ]~~
- 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 "Consumer" means a person who receives skilled home health services or personal care  
22 services in his or her temporary or permanent home or place of residence from a home  
23 care agency or home care placement agency.
- 24 3.7 "Department" means the Colorado Department of Public Health and Environment.
- 25 3.8 "Employee" means any person providing home care and services on behalf of the  
26 agency.
- 27 3.9 "Geographic Area" means an area of land, for which the agency shall be licensed  
28 surrounding the home care agency's primary location. There is no restriction as to the  
29 number of agencies that may provide services in a particular geographic area.
- 30 3.10 "Home Care Agency" means any sole proprietorship, partnership, association,  
31 corporation, government or governmental subdivision or agency subject to the restrictions  
32 in Section 25-1.5-103(1)(a)(II), C.R.S., not-for-profit agency, or any other legal or  
33 commercial entity that manages and offers, directly or by contract, skilled home health  
34 services or personal care services to a home care consumer in the home care  
35 consumer's temporary or permanent home or place or residence. Home Care Agency is  
36 also referred to in this Chapter as "HCA" or "agency."
- 37 (A) A residential facility that delivers skilled home health or personal care services  
38 which the facility is not licensed to otherwise provide, shall either be licensed as  
39 a home care agency or require the skilled home health or personal care services  
40 to be delivered by a licensed home care agency.
- 41 (B) "Home Care Agency" does not include:
- 42 (1) Organizations that provide only housekeeping services;

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

- 1 3.18 "Primary agency" means the agency responsible for the professional case management  
2 of the consumer when a secondary or subcontracted agency is also providing care and  
3 services.
- 4 3.19 "Service note" means a written notation that is signed, with date and time, by a member  
5 of the home care agency furnishing the non-medical services.
- 6 3.20 "Skilled home health services" means health and medical services furnished in the  
7 consumer's temporary or permanent place of residence that include wound care services;  
8 use of medical supplies including drugs and biologicals prescribed by a physician; in-  
9 home infusion services; nursing services; or certified nurse aide services that require the  
10 supervision of a licensed or certified health care professional acting within the scope of  
11 his or her license or certificate; occupational therapy; physical therapy; respiratory care  
12 services; dietetics and nutrition counseling services; medication administration; medical  
13 social services; and speech-language pathology services. "Skilled home health services"  
14 does not include the delivery of either durable medical equipment or medical supplies.
- 15 3.21 "Subdivision" means a component of a multi-function health agency, such as the home  
16 care department of a hospital or the nursing division of a health department, which  
17 independently meets the licensure requirements for HCAs. A subdivision that has branch  
18 offices is considered a parent agency.
- 19 3.22 "Summary report" means the compilation of the pertinent factors of a home care  
20 consumer's clinical notes that is submitted to the consumer's physician by the skilled  
21 home health care agency.
- 22 3.23 "Supervision" means authoritative procedural guidance by a qualified person for the  
23 accomplishment of a function or activity.
- 24 Section 4 – Placement Agencies
- 25 4.1 Registration
- 26 (A) On or after June 1, 2009, each home care placement agency shall notify the  
27 Department in writing that it provides referrals for home care services to  
28 consumers and shall annually update such notice.
- 29 (B) The person(s) responsible for the operation of any placement agency that fails to  
30 register with the Department may be subject to a civil penalty assessed by the  
31 Department of not less than five hundred dollars per year or more than one  
32 thousand dollars per year.
- 33 4.2 Criminal history record check
- 34 (A) On or after June 1, 2009, the home care placement agency shall require any  
35 individual seeking placement to submit to a criminal history record check.
- 36 (B) The criminal history record check shall be conducted not more than ninety days  
37 prior to placement of the applicant.
- 38 (C) The cost of such inquiry shall be paid by either the home care placement agency  
39 or the individual seeking placement.
- 40 4.3 Disclosures

- 1 (A) The placement agency shall provide a written disclosure notice to the consumer  
 2 or ~~legal~~ **authorized** representative, before services are rendered, that specifies  
 3 the service provided by the placement agency and the consumer's obligation  
 4 regarding ~~employment~~ of the home care worker.
- 5 (B) The disclosure notice shall be signed by the consumer or **authorized**  
 6 representative before the start of services and shall include information as to who  
 7 is responsible for the following items:
- 8 **(1) Employment of the home care worker,**
- 9 **(2) Liability for the home care worker while in the consumer's home,**
- 10 **(3) Payment of wages to the home care worker,**
- 11 **(4) Payment of employment and social security taxes,**
- 12 **(5) Payment of unemployment, workers' compensation and general liability**  
 13 **insurance, and, if provided, bond insurance.**
- 14 **(6) Supervision of the home care worker,**
- 15 **(7) Scheduling of the home care worker,**
- 16 **(8) Assignment of duties to the home care worker,**
- 17 **(9) Hiring, firing and discipline of the home care worker,**
- 18 **(10) Provision of equipment or materials for the home care worker's use in**  
 19 **providing services to the consumer, and**
- 20 **(11) ~~Ensuring home care worker~~ Training and ensuring qualifications that**  
 21 **meet the needs of the consumer.**

## 22 Section 5 – Department Oversight

### 23 5.1 License Classification

- 24 (A) A home care agency shall be issued a license consistent with the type and extent  
 25 of services provided. Unless otherwise specified, each agency shall meet the  
 26 requirements in section 6 of this Chapter as well as sections 7 and/or 8  
 27 depending upon the services provided.
- 28 Class A – a home care agency that provides any skilled healthcare service.
- 29 Class B – a home care agency that provides only personal care services.
- 30 (B) An agency providing home care services that are regulated by the Department of  
 31 Health Care Policy and Financing (HCPF) or the Department of Human Services  
 32 (DHS), excluding **certified** agencies defined in section 3.4, shall be licensed as a  
 33 Class B agency unless otherwise specified below.
- 34 (1) Any agency providing services regulated by HCPF or DHS that also  
 35 provides skilled care or services delivered by a licensed professional  
 36 shall be licensed as a Class A agency.

- 1 (2) If an agency's governing body, after consultation with the advisory  
 2 committee, administrator or agency manager, determines a home care  
 3 regulation substantially impedes ~~the~~ its ability to provide appropriate and  
 4 effective services to the consumer or substantially impedes the  
 5 appropriate and effective services of the total program, the department  
 6 may approve an alternate plan as long as the health, safety, welfare and  
 7 rights of the consumer is assured. ~~in an alternate manner.~~
- 8 (C) Residential Facilities
- 9 (1) Any residential facility that delivers skilled home health or personal care  
 10 services that the facility is not licensed or certified to otherwise provide,  
 11 shall either be licensed as a home care agency or require the skilled  
 12 home health or personal care services to be delivered by a licensed  
 13 home care agency.
- 14 (a) Consumer services shall be provided only upon individual  
 15 service contracts. The resident or consumer requiring services  
 16 not covered under the primary license shall be given the  
 17 opportunity to contract with the home care agency of choice and  
 18 shall not be restricted to the use of the residential facility home  
 19 care agency.
- 20 (b) A residential facility may not contract for nor provide **skilled**  
 21 **home health and or** personal care services on a facility-wide  
 22 basis under this license. Each residential facility providing  
 23 facility-wide services shall be licensed according to the  
 24 appropriate provider type.
- 25 (c) The home care records shall be easily identifiable and separated  
 26 in the consumer record from the residential care records.
- 27 (2) The requirements contained in section 6 through 8 of this Chapter shall  
 28 apply only to processes, policies and procedures that address those  
 29 consumers receiving skilled home ~~care health and/or~~ personal care  
 30 services in their temporary or permanent place of residence.
- 31 (a) The requirements apply to all residential facilities providing  
 32 **skilled home care health** services not covered under the  
 33 primary residential care license or certification.
- 34 (b) The requirements for governing body, professional advisory  
 35 committee, complaints, occurrences and quality assurance  
 36 activities may be met, in whole or in part, in conjunction with like  
 37 activities of the primary license. However, there shall be  
 38 documented oversight of the home care portion of the services  
 39 provided distinct from that of the primary license.
- 40 5.2 License Procedure
- 41 (A) The HCA shall comply with the requirements of 6 CCR 1011-1, Chapter II,  
 42 Sections 2.3 and 2.4 at the time of the agency's request for initial or renewal  
 43 licensure, and at the time of any change in ownership.

- 1 (B) When submitting an application for an initial or renewal license, the HCA shall  
2 include evidence of either liability insurance coverage or a surety bond in lieu of  
3 liability insurance coverage. Such coverage shall be maintained for the duration  
4 of the license period. **The minimum amount of coverage is:**
- 5 (1) **Class A - five hundred thousand dollars (\$500,000) per occurrence**  
6 **and three million dollars (\$3,000,000) aggregate.**
- 7 (2) **Class B – one hundred thousand dollars (\$100,000) per occurrence**  
8 **and three thousand dollars (\$300,000) aggregate.**
- 9 (C) The agency shall submit to the Department a list of the contiguous counties that  
10 it plans to serve and assure adequate staffing, supervision, consumer care and  
11 services are provided within the declared geographical area.
- 12 (D) Each HCA owner, applicant or licensee shall submit a complete set of his or her  
13 fingerprints to the department. The department shall forward such fingerprints to  
14 the Colorado Bureau of Investigation for the purpose of conducting a state and  
15 national fingerprint-based criminal history record check utilizing the records of the  
16 Colorado Bureau of Investigation and the Federal Bureau of Investigation. The  
17 owner, applicant or licensee shall pay the costs associated with the fingerprint-  
18 based criminal history record check to the Colorado Bureau of Investigation.
- 19 (1) No license shall be issued or renewed by the department if the owner,  
20 applicant, or licensee of the home care agency has been convicted of a  
21 felony or of a misdemeanor, which felony or misdemeanor involves moral  
22 turpitude or involves conduct that the department determines could pose  
23 a risk to the health, safety or welfare of HCA consumers.
- 24 (E) Except as otherwise specified herein, the department shall issue or renew a  
25 license when it is satisfied that the applicant or licensee is in compliance with  
26 these rules. A license issued or renewed pursuant to this section 5.2 shall expire  
27 one year after the date of issuance or renewal.
- 28 (F) No license shall be transferred from one location to another without prior notice  
29 to the department as provided in this subsection. If an agency is considering  
30 moving or changing the licensed physical address, the agency shall notify the  
31 department 30 days prior to the intended relocation in accordance with 6 CCR  
32 1011-1, Chapter II, section 2.9.2.
- 33 (1) To retain the current license, the new physical location shall be relocated  
34 within the existing geographic service area and retain the same  
35 governing body and administrator.
- 36 (2) If the change in physical address does not meet the requirements listed  
37 above, the HCA shall submit an application for a new license.
- 38 (G) The department may refuse to renew the license of a home care agency that is  
39 out of compliance with the requirements of Section 25-27.5-101, *et seq.*, C.R.S.  
40 or these rules.
- 41 (H) If the department denies an application for an HCA license, the department shall  
42 notify the applicant in writing of such denial by mailing a notice to the applicant at  
43 the address shown on the application. The notice shall also inform the agency of  
44 its right to appeal the denial and the procedure for appealing the denial.

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

3 5.3 Provisional licenses

4 (A) The department may issue a provisional license to any applicant for the purpose  
5 of operating a home care agency for a period of ninety days if the applicant is  
6 temporarily unable to conform to all of the minimum standards required by this  
7 Chapter, except that no license shall be issued to an applicant if the operation of  
8 the applicant's home care agency will adversely affect the health, safety, or  
9 welfare of the home care consumers of such home care agency.

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

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

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

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

22 5.4 License Fees

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

25 5.5 Inspections

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

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

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

38 (2) The consumer file and administrative records including, but not limited to,  
39 census and demographic information, complaint and incident reports,  
40 meeting minutes, quality assurance and annual program review  
41 documents shall be provided to the inspector within 30 minutes of

1 request. The time for production may be extended at the department's  
2 discretion.

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

5 (D) The HCA shall provide accurate and truthful information to the department during  
6 inspections, investigations and licensing activities. Failure to provide information  
7 requested by the department and known to the agency shall be grounds for  
8 action against a license.

9 5.6 Plan of Correction

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

14 (B) Plans of correction shall be:

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

17 (2) Signed by the agency administrator.

18 (C) Corrective actions shall be implemented within 45 days of the exit date or as  
19 determined by the Department.

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

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

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

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

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

34 5.7 Intermediate restrictions or conditions

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

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

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

- 1 (3) Providing additional training to employees, owners, or operators of the  
2 home care agency;
- 3 (4) Complying with a directed written plan to correct the violation, or
- 4 (5) Paying a civil fine not to exceed ten thousand dollars per calendar year  
5 for all violations.
- 6 (B) If the department imposes an intermediate restriction or condition that is not the  
7 result of a serious and immediate threat to health or welfare, the department shall  
8 provide the agency with written notice of the restriction or condition. No later  
9 than ten days after receipt of the notice, the agency shall submit a written plan  
10 that includes the time frame for completing the directed plan that addresses the  
11 restriction or condition specified.
- 12 (C) If the department imposes an intermediate restriction or condition that is the  
13 result of a serious and immediate threat to health, safety or welfare, the  
14 department shall notify the agency in writing, by telephone, or in person during  
15 an on-site visit.
- 16 (1) The agency shall remedy the circumstances creating the harm or  
17 potential harm immediately upon receiving notice of the restriction ~~of~~ **or**  
18 condition.
- 19 (2) If the department provides notice of a restriction or condition by  
20 telephone or in person, the department shall send written confirmation of  
21 the restriction or condition to the agency within two business days.
- 22 (D) After submission of an approved written plan, the agency may appeal any  
23 intermediate restriction or condition to the department through an informal review  
24 process as specified by the department.
- 25 (E) If the department imposes an intermediate restriction or condition that requires  
26 payment of a civil fine, the agency may request and the department shall grant a  
27 stay in payment of the fine until final disposition of the restriction or condition.
- 28 (F) If an agency is not satisfied with the result of the informal review or chooses not  
29 to seek informal review, no intermediate restriction or condition shall be imposed  
30 until after the opportunity for a hearing has been afforded pursuant to the State  
31 Administrative Procedure Act, Section 24-4-101, *et seq.*, C.R.S.
- 32 5.8 Revocation or suspension
- 33 (A) The department may revoke or suspend the license of a home care agency that  
34 is out of compliance with the requirements of Section 25-27.5-101, *et seq.*,  
35 C.R.S. or these rules.
- 36 (B) The department shall revoke or suspend the license of a home care agency  
37 where the owner or licensee has been convicted of a felony or misdemeanor  
38 involving moral turpitude or conduct that the department determines could pose a  
39 risk to the health, safety or welfare of the consumer of such agency.
- 40 (C) Appeals of departmental revocations or suspensions shall be conducted in  
41 accordance with the State Administrative procedure Act, Section 24-4-101, *et*  
42 *seq.*, C.R.S.

- 1 5.9 Summary suspension
- 2 (A) The department may summarily suspend an agency's license if it finds, after  
3 investigation, that an agency has engaged in a deliberate and willful violation of  
4 these regulations or that the public health, safety, or welfare requires immediate  
5 action.
- 6 (B) If the department summarily suspends an agency's license, it shall provide the  
7 agency with a notice explaining the basis for the summary suspension. The  
8 notice shall also inform the agency of its right to appeal and that it is entitled to a  
9 prompt hearing on the matter.
- 10 (C) Appeals of summary suspensions shall be conducted in accordance with the  
11 State Administrative procedure Act, Section 24-4-101, *et seq.*, C.R.S.
- 12 5.10 Civil fines
- 13 (A) If the department assesses a civil fine pursuant to this section, the money  
14 received by the department shall be transmitted to the state treasurer, who shall  
15 credit the same to the home care agency cash fund created in section 25-27.5-  
16 105, C.R.S.
- 17 (B) Civil fines collected pursuant to this section shall be used for expenses related to:
- 18 (1) Continuing monitoring required by this section,
- 19 (2) Education for agencies to avoid restrictions or conditions or facilitate the  
20 processes for application or change of ownership;
- 21 (3) Education for consumers and their families about resolving problems  
22 with an agency, rights of consumers and responsibilities of agencies;
- 23 (4) Providing technical assistance to any home care agency for the purpose  
24 of complying with changes in rules or state or federal law;
- 25 (5) Monitoring and assisting in the transition of consumers to other agencies,  
26 when the transition is the result of the revocation of a license, or other  
27 appropriate medical services; or
- 28 (6) Maintaining the operation of an agency pending correction of violations,  
29 as determined necessary by the department.

### 30 **Section 6 – General Requirements For All License Categories**

- 31 6.1 Out of State Entities
- 32 Every HCA providing services within the State, shall have a physical business office  
33 capable of conducting day-to-day business as a home care agency within Colorado and  
34 shall be licensed according to the services rendered.
- 35 6.2 Branch Offices
- 36 (A) An HCA shall notify the department in advance of its plan to establish a branch  
37 office. Notification shall include:

- 1 (1) A description of the services to be provided<sup>1</sup>,
- 2 1 A branch office, as an extension of the parent HCA, may not offer services that are different than those offered by the
- 3 parent HCA.
- 4 (2) The geographic area to be served by the branch office, and
- 5 (3) A description of how the parent agency will supervise the branch office.
- 6 (B) The parent agency administrator, manager or supervisor shall conduct an onsite
- 7 visit of the branch office in accordance with agency policy.
- 8 (C) One or more health professionals who possess the experience, education and
- 9 qualifications to oversee all care and services provided by the branch shall be
- 10 available during all operating hours.
- 11 (1) If only personal care services are provided, an employee that meets the
- 12 qualifications of supervisor shall be available during all operating hours.
- 13 (D) The location of the branch, in relation to the parent, shall be such that the parent
- 14 is able to assure adequate supervision at all times.
- 15 (E) The branch office shall have a copy of all agency policies available and readily
- 16 accessible to staff.
- 17 (F) The agency shall ensure that consumer records are readily accessible to all staff
- 18 providing care and services.
- 19 6.3 Criminal History Record Checks
- 20 (A) On or after June 1, 2009, the HCA shall require any individual seeking
- 21 employment with the agency to submit to a criminal history record check.
- 22 (B) The criminal history record check shall be conducted not more than ninety days
- 23 prior to employment of the individual.
- 24 (C) The cost of such inquiry shall be paid by either the home care agency or the
- 25 individual seeking employment.
- 26 (D) The HCA shall develop and implement policies and procedures regarding the
- 27 employment of any individual who is convicted of a felony or misdemeanor to
- 28 ensure that the individual does not pose a risk to the health, safety and welfare of
- 29 the consumer.
- 30 6.4 Consumer Rights
- 31 (A) Assurance of rights
- 32 (1) The HCA shall establish and implement written policies and procedures
- 33 regarding the rights of consumers and the implementation of these
- 34 rights. A complete statement of these rights, including the right to file a
- 35 complaint with the department, shall be distributed to all staff and
- 36 contracted personnel upon hire.
- 37 (2) At a minimum, the HCA's policies and procedures shall specify that:

- 1 (a) The consumer or authorized representative has the right to be  
2 informed of the consumer's rights through an effective means of  
3 communication.
- 4 (b) The consumer has the right to be assured that the HCA shall not  
5 condition the provision of care or otherwise discriminate against  
6 a consumer based upon personal, cultural or ethnic preference,  
7 disabilities or whether the consumer has an advance directive.
- 8 (c) The HCA shall protect and promote the exercise of these rights.
- 9 (B) Notice of rights
- 10 (1) ~~Before the initiation of care or services~~ **Within one business day of the**  
11 **start of services**, the HCA shall provide the consumer **or authorized**  
12 **representative** with a notice of the consumer's rights in a manner that  
13 the consumer understands. The notice shall include information about  
14 the consumer's options if rights are violated, including how to contact an  
15 individual employed with the HCA who is responsible for the complaint  
16 intake and problem resolution process.
- 17 (C) Exercise of rights and respect for property and person
- 18 (1) The rights of the consumer may be exercised by the consumer or ~~the~~  
19 ~~consumer's~~ authorized representative without fear of retribution or  
20 retaliation.
- 21 (2) The consumer has the right to have his or her person and property  
22 treated with respect. The consumer has the right to be free from neglect,  
23 financial exploitation, verbal, physical and psychological abuse including  
24 humiliation, intimidation or punishment.
- 25 (3) The consumer **or authorized representative**, upon request to the HCA,  
26 has the right to be informed of the full name, licensure status, staff  
27 position and employer of all persons with whom the consumer has  
28 contact and is supplying, staffing or supervising care or services. The  
29 consumer has the right to be served by agency staff who are properly  
30 trained and competent to perform their duties.
- 31 (4) The consumer has the right to live free from involuntary confinement,  
32 and to be free from physical or chemical restraints as defined in 6 CCR  
33 1011-1, Chapter II, Part 8.
- 34 (5) The consumer **or authorized representative** has the right to express  
35 complaints verbally or in writing about services or care that is or is not  
36 furnished, or about the lack of respect for the consumer's person or  
37 property by anyone who is furnishing services on behalf of the HCA.
- 38 (6) The consumer shall have the right to confidentiality of all records,  
39 communications, and personal information. The HCA shall advise the  
40 consumer of the agency's policies and procedures regarding disclosure  
41 of clinical information and records.
- 42 (D) Right to be informed and to participate in planning care and services

- 1 (1) The HCA shall inform the consumer **or authorized representative** in  
2 advance about the care and services to be furnished, and of any  
3 changes in the care and services to be furnished to enable the consumer  
4 to give informed consent.
- 5 (a) The consumer has the right to refuse treatment within the  
6 confines of the law, to be informed of the consequences of such  
7 action and to be involved in experimental research only upon the  
8 consumer's voluntary written consent.
- 9 (b) The consumer has the right to be told in advance of receiving  
10 care about the services that will be provided, the disciplines that  
11 will furnish care, the frequency of visits proposed to be furnished,  
12 and the consequences of refusing care or services.
- 13 (2) The HCA shall offer the consumer **or authorized representative** the  
14 right to participate in developing the plan of care and receive instruction  
15 and education regarding the plan.
- 16 (a) The HCA shall advise the consumer in advance of the right to  
17 participate in planning the care or treatment, and in planning  
18 changes in the care or treatment
- 19 (b) ~~Before commencing services~~ **Within one business day of the**  
20 **start of services**, the HCA shall inform the consumer  
21 concerning the agency's policies on advance directives,  
22 including a description of applicable state law. The HCA may  
23 furnish advance directives information to a consumer at the time  
24 of the first home visit, as long as the information is furnished  
25 before care is provided.
- 26 (E) The consumer **or authorized representative** has the right to be advised orally  
27 and in writing **within one business day of the start of services** of the extent to  
28 which payment for the HCA services may be expected from insurance or other  
29 sources, and the extent to which payment may be required from the consumer.
- 30 (F) The consumer **or authorized representative** has the right to be advised of any  
31 changes in billing or payment procedures before implementation.
- 32 (1) If an agency is implementing a scheduled rate increase to all clients, the  
33 agency shall provide a written notice to each affected consumer ~~or~~  
34 ~~authorized representative~~ at least 30 days before implementation.
- 35 (2) The HCA shall advise the consumer ~~or authorized representative~~ of any  
36 individual changes orally and in writing as soon as possible, but no later  
37 than five business days from the date that the HCA becomes aware of a  
38 change.
- 39 (3) An HCA shall not assume power of attorney or guardianship over a  
40 consumer utilizing the services of the HCA, require a consumer to endorse  
41 checks over to the HCA or require a consumer to execute or  
42 assign a loan, advance, financial interest, mortgage or other property in  
43 exchange for future services.

- 1 (G) The consumer **or authorized representative** has the right to be advised of the  
2 availability of the state's toll-free HCA hotline. When the agency accepts the  
3 consumer for treatment or care, the HCA shall advise the consumer in writing of  
4 the telephone number of the home health hotline established by the state, the  
5 hours of its operation, and that the purpose of the hotline is to receive complaints  
6 or questions about local HCAs. The consumer also has the right to use this  
7 hotline to lodge complaints regarding care received or not received including  
8 implementation of the advance directives requirements.
- 9 (H) The HCA shall make available to the consumer **or authorized representative**,  
10 upon request, a written notice listing all individuals or other legal entities having  
11 ownership or controlling interest in the agency.
- 12 (I) The HCA shall maintain documentation showing that it has complied with the  
13 requirements of this section.
- 14 6.5 Admissions
- 15 (A) Agencies shall only accept consumers for care or services on the basis of a  
16 reasonable assurance that the consumer's needs can be met adequately by the  
17 agency in the individual's place of temporary or permanent residence.
- 18 (1) There shall be initial documentation of the agreed upon days and times  
19 of services to be provided based upon the consumer's needs, that is  
20 updated at least annually.
- 21 (B) If an agency receives a referral of a consumer who requires care or services that  
22 are not available at the time of referral, the agency shall advise the consumer's  
23 primary care provider, if applicable, and the consumer of that fact.
- 24 (1) The agency shall only admit the consumer if the primary care provider  
25 and the consumer or consumer's representative agree the ordered  
26 services can be delayed or discontinued.
- 27 6.6 Discharge Planning
- 28 (A) There shall be a specific plan for discharge in the consumer record and there  
29 shall be ongoing discharge planning with the consumer.
- 30 (B) If no improvement or no discharge is expected, the agency shall document in the  
31 consumer record this assessment.
- 32 (C) The HCA shall assist each consumer to find an appropriate placement with  
33 another agency if the consumer continues to require care and/or services upon  
34 discharge. The HCA shall document due diligence in ensuring continuity of care  
35 upon discharge as necessary to protect the consumer's safety and welfare.
- 36 (D) Once admitted, an HCA shall not discontinue or refuse services to a consumer  
37 unless documented efforts have been made to resolve the situation that triggered  
38 such discontinuation or refusal to provide services.
- 39 (1) The consumer shall be notified verbally and in writing of the agency's  
40 intent to discharge and the reasons for the discharge.
- 41 6.7 Disclosure Notice

1 (A) **The HCA shall provide a written disclosure notice to the** A notice, as  
2 ~~prescribed by the department, shall be provided to each consumer~~ **or authorized**  
3 **representative** within one business day of the start of services ~~showing the~~  
4 ~~licensure or registration type and services provided by the agency. The notice~~  
5 ~~shall inform the consumer as to the responsible party for the following:~~ **that**  
6 **specifies the service provided by the HCA and the consumer’s obligation**  
7 **regarding the home care worker.**

8 (B) **The disclosure notice shall be signed by the consumer or authorized**  
9 **representative and shall include information as to who is responsible for**  
10 **the following items:**

- 11 (1) Employment of the home care worker,
- 12 (2) Liability for the home care worker while in the consumer’s home,
- 13 (3) Payment of wages to the home care worker,
- 14 (4) Payment of employment and social security taxes,
- 15 (5) Payment of unemployment, worker’s compensation, general liability  
16 insurance, and, if provided, bond insurance.
- 17 (6) Supervision of the home care worker,
- 18 (7) Scheduling of the home care worker,
- 19 (8) Assignment of duties to the home care worker,
- 20 (9) Hiring, firing and discipline of the home care worker,
- 21 (10) Provision of equipment or materials for the home care worker's use in  
22 providing services to the consumer, and
- 23 (11) Training and ensuring qualifications that meet the needs of the  
24 consumer.

25 (B) The HCA shall ensure that the disclosure notice is acknowledged by the  
26 consumer or authorized representative within one business day of the start of  
27 services.

28 6.8 Non-compete agreements

29 (A) A HCA shall not coerce, threaten, or use any means of intimidation to prevent an  
30 employee from terminating the employment relationship and commencing  
31 employment at another HCA.

32 (B) Non-compete clauses, agreements or contracts shall only be enforceable in  
33 accordance with Section 8-2-113, C.R.S.

34 6.9 Complaint Processing

35 (A) The HCA shall develop and implement policies to include the following items:

- 1 (1) Investigation of complaints made by a consumer or others about services  
2 or care that is or is not furnished, or about the lack of respect for the  
3 consumer's person or property by anyone furnishing services on behalf  
4 of the HCA.
- 5 (2) Documentation of the existence, the investigation, and the resolution of  
6 the complaint. The agency shall notify the complainant of the results of  
7 the investigation and the agency's plan to resolve any issue identified.
- 8 (3) Incorporation of the substantiated findings into its quality assurance  
9 program in order to evaluate and implement systemic changes where  
10 needed.
- 11 (4) Explicit statement that the HCA does not discriminate or retaliate against  
12 a consumer for expressing a complaint or multiple complaints.
- 13 (5) Maintenance of a separate record/log/file detailing all activity regarding  
14 complaints received, and their investigation and resolution thereof. The  
15 record shall be maintained for at least a two-year period of time and shall  
16 be available for audit and inspection purposes.
- 17 6.10 Agency Reporting Requirements
- 18 (A) Each HCA shall comply with the occurrence reporting requirements set forth in 6  
19 CCR 1011, Chapter II, Section 3.2.
- 20 (B) The agency shall investigate each reportable occurrence and institute  
21 appropriate measures to prevent similar future occurrences.
- 22 (1) Documentation regarding the investigation, including the appropriate  
23 measures to be instituted, shall be made available to the department,  
24 upon request.
- 25 (2) A report with the investigation findings shall be available for review by  
26 the department within five working days of the occurrence.
- 27 (C) Nothing in this section 6.10 shall be construed to limit or modify any statutory or  
28 common law right, privilege, confidentiality or immunity.
- 29 (D) An HCA shall notify the department before it initiates discharge of any consumer  
30 who requires and desires continuing paid care or services where there are no  
31 known transfer arrangements to protect the consumer's health, safety or welfare.
- 32 (1) Emergency discharges necessary to protect the safety and welfare of  
33 staff shall be reported to the department within 48 hours of the  
34 occurrence.
- 35 (E) The home care agency shall ensure that all staff have knowledge of Article 3.1 of  
36 Title 26, C.R.S. regarding protective services for at-risk adults, and that all  
37 incidents involving neglect, abuse or financial exploitation are reported  
38 immediately, through established procedures, to the agency administrator or  
39 manager.
- 40 (1) Any home care agency that provides care and/or services to pediatric  
41 consumers, shall ensure that all staff have knowledge of Part 3 of Article

1 3 of Title 19, C.R.S. regarding child abuse or neglect, and that all  
2 incidents involving child abuse or neglect are reported immediately,  
3 through established procedures, to the agency administrator or manager.

4 (2) The agency shall report the incident to the appropriate officials as  
5 specified in the statute and to the department as an occurrence. The  
6 agency shall make copies of all such reports available to the department  
7 upon request.

8 (3) The agency shall document that all alleged incidents involving neglect,  
9 abuse or health professional misconduct are thoroughly investigated in a  
10 timely manner. The agency shall develop and implement a policy that  
11 addresses what administrative procedures will be implemented to protect  
12 its consumers during the investigation process.

### 13 6.11 Personnel Records and Policies

14 (A) Agency policy shall direct any program or service offered by the HCA directly or  
15 under arrangement be provided in accordance with the plan of care and agency  
16 policy and procedure.

17 (1) The HCA shall define the required competence, qualifications, and  
18 experience of staff in each program or service it provides.

19 (2) Personnel policies shall be available to all full and part-time employees.

20 (B) Personnel records for all employees shall include references, dates of  
21 employment and separation from the agency and the reason for separation.  
22 Personnel records for all employees shall also include:

23 (1) Qualifications and licensure that are kept current.

24 (a) Qualifications include confirmation of type and depth of  
25 experience, advanced skills, training and education; and  
26 appropriate, detailed and observed competency evaluation and  
27 written testing overseen by a person with the same or higher  
28 validated qualifications.

29 (2) Orientation to the agency,

30 (3) Job descriptions for all positions assigned by the agency, and

31 (4) Annual performance evaluation for each employee.

32 (C) Before employing any individual to provide direct consumer care or services, the  
33 agency shall contact the Department of Regulatory Agencies (DORA) to verify  
34 whether a license, registration or certification exists and is in good standing. A  
35 copy of the inquiry shall be placed in the individual's personnel file.

### 36 6.12 Emergency Preparedness

37 (A) The home care agency (HCA) shall have a written emergency preparedness plan  
38 that is designed to manage consumers' care and services in response to the  
39 consequences of natural disasters or other emergencies that disrupt the

- 1 agency's ability to provide care and services or threatens the lives or safety of its  
2 consumers.
- 3 (B) At a minimum, an agency's written emergency preparedness plan shall include  
4 the following:
- 5 (1) The provisions for the management of all staff, who are designated to be  
6 involved in emergency measures, including the assignment of  
7 responsibilities and functions. All staff shall be informed of their duties  
8 and be responsible for implementing the emergency preparedness plan.
- 9 (2) Education for consumers, caregivers and families on how to handle care  
10 and treatment, safety, and/or well-being during and following instances of  
11 natural (tornado, flood, blizzard, fire, etc.) and other disasters, or other  
12 similar situations appropriate to the needs of the consumer.
- 13 (3) Staff education on emergency preparedness so that staff safety is  
14 assured.
- 15 (C) The agency shall review its emergency preparedness plan retrospectively after  
16 implementation of incident response and on an annual basis, and incorporate  
17 into policy any substantive changes.
- 18 6.13 Coordination with External Home Care Agencies
- 19 (A) Each HCA shall be responsible for the coordination of consumer services with  
20 known external HCAs providing care and services to the same consumer.
- 21 (1) No HCA shall refuse to share consumer care information unless the  
22 consumer has chosen to refuse coordination with external HCAs.
- 23 (2) The consumer's refusal of such coordination shall be documented in the  
24 consumer's record.
- 25 6.14 Quality Management Program
- 26 (A) Every HCA shall establish a quality management program appropriate to the size  
27 and type of agency that evaluates the quality of consumer services, care and  
28 safety, and that complies with the requirements set forth in 6 CCR 1011, Chapter  
29 II, Section 3.1.
- 30 6.15 Infection Control
- 31 (A) The HCA shall provide training for its employees regarding the agency's written  
32 infection control policies and procedures at the time of hire and annually.
- 33 (B) The HCA shall evaluate the adequacy of its infection control policies and  
34 procedures at least annually, make any necessary substantive changes and  
35 document in writing.
- 36 6.16 Employee Health – Communicable Disease Prevention
- 37 (A) It shall be the responsibility of the HCA to establish written policies concerning  
38 pre-employment physical evaluations and employee health. Those policies shall  
39 include, but not be limited, to:

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

5 6.17 Missed visits

6 (A) There shall be a mechanism for informing the consumer about scheduled visits in  
7 accordance with agency policy. Documentation shall be maintained and  
8 alterations in the schedule shall be provided to the consumer as soon as  
9 practical.

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

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

16 (3) If there is a **missed visit**, ~~interruption in services~~, services shall be  
17 provided as agreed upon by the consumer and the HCA.

18 (4) If the HCA admits consumers with needs that require care or services to  
19 be delivered at specific times or parts of day, the HCA shall ensure  
20 qualified staff in sufficient quantity are employed by the agency or have  
21 other effective back-up plans to ensure the needs of the consumer is  
22 met.

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

27 6.18 Contracts

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

31 (1) Home care consumers are accepted for care only by the primary HCA.

32 (2) The specific services to be furnished.

33 (3) The necessity to conform to all applicable agency policies, including  
34 personnel qualifications.

35 (4) The responsibility for participating in developing plans of care or service.

36 (5) The manner in which services will be controlled, coordinated, and  
37 evaluated by the primary HCA.

38 (6) The procedures for submitting clinical/~~service encounter~~ notes,  
39 scheduling of visits, periodic consumer evaluation.

- 1 (7) The procedures for payment for services furnished under the contract.
- 2 6.19 Information Management System
- 3 (A) Each HCA shall implement a policy and procedure for an effective information  
4 management system either paper-based or electronic. Processes shall include  
5 effective management for capturing, reporting, processing, storing and retrieving  
6 clinical/service data and information in accordance with standards of practice.  
7 The system shall provide for:
- 8 (1) Privacy and confidentiality of protected health information from  
9 unauthorized use or manipulation;
- 10 (2) Organization of the consumer record utilizing standardized formats for  
11 documenting all care, treatment and services provided to consumers  
12 according to agency policy. Standardization shall not include pre-filled  
13 documentation of future care and services.
- 14 (B) In addition, for electronic consumer healthcare records, policies and procedures  
15 shall be devised and implemented to ensure:
- 16 (1) A method for validating data entry access and changes to previously  
17 entered data.
- 18 (2) Recovery of records including contingency plans for operational  
19 interruptions (hardware, software, or other systems failures), emergency  
20 service plan, a back-up system for retrieval of data from storage and  
21 information presently in the operating system.
- 22 6.20 Consumer Record Content
- 23 (A) All HCAs (~~personal care and skilled home health services~~) shall have a complete  
24 and accurate record for each consumer assessed, cared for, treated or served.  
25 The record shall contain sufficient information to identify the consumer; support  
26 the diagnosis or condition; justify the care, treatment, and/or services; and  
27 promote continuity of care internally and externally where applicable.
- 28 (1) Such records shall contain consumer-specific information as appropriate  
29 to the care, treatment or services provided including but not limited to:
- 30 (a) Records of communications with the consumer regarding care,  
31 treatment and services, including documentation of phone calls  
32 and emails.
- 33 (b) Referrals to and names of known home care agencies,  
34 individuals and organizations involved in the consumer's care
- 35 (2) In addition clinical records for HCAs providing skilled home ~~care~~ **health**  
36 services shall contain, where applicable:
- 37 (a) Hospital and emergency room records for known episodes or  
38 documentation of efforts to obtain the information.
- 39 (b) Medical equipment provided by the HCA or related to the care,  
40 treatment and services provided including assessment of

- 1 consumer and family comprehension of appropriate use and  
2 maintenance.
- 3 (c) Consumer and family education, and training on services or  
4 treatments and the use of equipment at the time of delivery to  
5 the home.
- 6 (d) Safety measures taken to protect the consumer from harm  
7 including fall risk assessments, and documentation why any  
8 identified or planned safety measures were not implemented or  
9 continued.
- 10 (e) Diagnostic and therapeutic procedures, treatments, tests and  
11 their results where known to have occurred.

12 **Section 7 – Skilled Care**

13 7.1 Governing Body

- 14 (A) A home care agency shall have an organized governing body.
  - 15 (1) The body shall consist of members who singularly or collectively have  
16 business and healthcare experience sufficient to oversee the services  
17 provided by the home care agency.
  - 18 (B) The governing body shall have a process for review of agency operations at least  
19 quarterly and meet at least annually.
  - 20 (C) The governing body shall assume responsibility for:
    - 21 (1) Compliance with all federal regulations, state rules, and local laws;
    - 22 (2) Quality consumer care;
    - 23 (3) Policies and procedures which describe and direct functions or services  
24 of the home care agency and protect consumer rights;
    - 25 (4) Bylaws that shall include at least:
      - 26 (a) A description of functions and duties of the governing body,  
27 officers, and committees;
      - 28 (b) A statement of the authority and responsibility delegated to the  
29 administrator;
      - 30 (c) Meet as stated in bylaws, at least annually;
      - 31 (d) Appoint in writing a qualified administrator who is responsible for  
32 the agency's overall functions.
    - 33 (5) Review of the written agency evaluation report and other  
34 communications from the administrator or group of professional  
35 personnel with evidence of written response.

- 1 (6) Establish and ensure the maintenance of a system of financial  
2 management and accountability.
- 3 (7) Organization, services furnished, administrative control and lines of  
4 authority for the delegation of responsibility down to the consumer care  
5 level that are clearly set forth in writing and are readily identifiable.
- 6 7.2 Administration
- 7 (A) The HCA, under the direction of the governing body, shall prepare an overall plan  
8 and a budget that includes an annual operating budget and capital expenditure  
9 plan (as applicable). The overall plan and budget shall be prepared by a  
10 committee consisting of representatives of the governing body, the administrative  
11 staff, and the medical staff (if any) of the HCA. The overall plan and budget shall  
12 be reviewed and updated at least annually by the committee referred to herein  
13 under the direction of the HCA governing body.
- 14 (B) Any HCA that performs procedures in the consumer's residence that are  
15 considered waived clinical laboratory procedures under the Clinical Laboratory  
16 Improvement Act of 1988, shall possess a certificate of waiver from the Centers  
17 for Medicare and Medicaid or its designated agency.
- 18 (C) Any HCA that provides equipment to consumers shall have written policies and  
19 procedures for the management of medical equipment provided for use in  
20 consumer homes including selection, acquisition, delivery and maintenance of  
21 the equipment.
- 22 (1) The HCA shall make full disclosure of the policies and procedures to all  
23 consumers before the equipment is provided. The policies and  
24 procedures shall include the following:
- 25 (a) A process to provide an appropriate back-up system including  
26 emergency services 24 hours per day where the malfunction  
27 may threaten the consumer's life.
- 28 (b) Monitoring and acting upon equipment hazard notices and  
29 recalls.
- 30 (c) Checking equipment upon delivery to the consumer to ensure it  
31 is sanitary, undamaged and operating properly.
- 32 (d) Basic safety and operational checks on infusion pumps that  
33 include a volumetric test of accuracy of infusion rate between  
34 each consumer use.
- 35 (e) Performance of routine and preventative maintenance conducted  
36 at defined intervals per manufacturer's guidelines.
- 37 (E) Availability
- 38 (1) The agency shall have a registered nurse or other health professional  
39 available after business hours.
- 40 (2) The agency shall have a policy describing at least the following:

- 1 (a) How consumers will contact the agency after hours; and  
2 (b) How the agency will ensure the health professional on call has  
3 access to all current consumer information.

4 7.3 Professional Advisory Committee

5 (A) Each HCA shall have a group of professional personnel that includes at least one  
6 physician and one registered nurse, an appropriate representation from the  
7 professional disciplines the HCA employs or contracts **with** to provide services.  
8 The group of professional personnel shall establish and annually review the  
9 agency's policies governing the services offered, admission and discharge  
10 policies, medical supervision and plans of care, emergency care, clinical records,  
11 personnel qualifications, and program evaluation. At least one member of the  
12 group shall be neither an owner, an employee nor a contractor for the provision  
13 of consumer care services for the HCA.

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

19 (C) The group of professional personnel shall meet annually and as frequently as  
20 necessary to advise the agency on professional issues, to participate in the  
21 evaluation of the agency's program, and to assist the agency in maintaining  
22 liaison with other health care providers in the community and in the agency's  
23 community information program. The HCA shall have a policy and procedure to  
24 establish criteria for calling a meeting of the group of professional personnel  
25 more frequently than annually. The policy shall be developed to ensure  
26 professional advice is requested and received at an appropriate frequency to  
27 protect and preserve the health, safety, and welfare of the consumers it serves.  
28 Each meeting shall be documented by date and the signatures of attendees.  
29 Meeting minutes shall be forwarded to the governing body to review and make  
30 recommendations.

31 7.4 Agency Evaluation

32 (A) The agency's governing body or its designee shall conduct a comprehensive  
33 evaluation of the agency's total operation at least annually.

34 (B) The evaluation shall assure the appropriateness and quality of the agency's  
35 services with findings used to verify policy implementation, to identify problems,  
36 and to establish problem resolution and policy revision as necessary.

37 (C) The evaluation shall consist of an overall policy and administration  
38 review, including the scope of services offered, arrangements for  
39 services with other agencies or individuals, admission and discharge  
40 policies, supervision and plan of care, emergency care, service records,  
41 personnel qualifications.

42 (D) In evaluating each aspect of its total program, the HCA shall consider four main  
43 criteria:

- 1 (1) Appropriateness. Assurance that the area being evaluated addresses  
2 existing and/or potential problems.
- 3 (2) Adequacy. A determination as to whether the HCA has the capacity to  
4 overcome or minimize existing or potential problems.
- 5 (3) Effectiveness. The service(s) offered accomplishes the objective(s) of  
6 the HHA and anticipated consumer outcome(s).
- 7 (4) Efficiency. Whether there is a minimal expenditure of resources by the  
8 HHA to achieve desired goals and anticipated consumer outcomes.
- 9 (E) Documentation of the annual evaluation shall include the names and titles of the  
10 persons carrying out the evaluation, the criteria and methods used to accomplish  
11 it, and any action taken by the agency as a result of its findings.
- 12 (F) **Appropriate professionals representing the scope of the agency's program**  
13 **shall** ~~An evaluation of the agency's client records shall be carried out at least~~  
14 ~~quarterly. by appropriate professionals representing the scope of the agency's~~  
15 ~~program.~~
- 16 (1) The evaluation shall include a review of sample active and closed client  
17 records to ensure that agency policies are followed in providing services,  
18 both direct and under arrangement, and to assure that the quality of  
19 service is satisfactory and appropriate. The review shall consist of a  
20 representative sample of all home care services provided by the agency.
- 21 7.5 Administrator
- 22 (A) The administrator shall assume authority for the operation of the agency's  
23 **skilled health services** including but not limited to:
- 24 (1) Organizing and directing the agency's ongoing functions;
- 25 (2) Employing qualified personnel and ensure appropriate ongoing  
26 education and supervision of personnel and volunteers;
- 27 (3) Ensuring the accuracy of public information materials and activities;
- 28 (4) Implementing a budgeting and accounting system; and
- 29 (5) Designating a qualified alternate administrator to act in the  
30 administrator's absence.
- 31 (B) The administrator shall:
- 32 (1) Be at least 21 years of age,
- 33 (2) Be a licensed physician, registered nurse or other licensed healthcare  
34 professional, or have experience and education in health service  
35 administration,
- 36 (3) Be qualified by education, knowledge and experience to oversee the  
37 services provided, and

- 1 (4) Have at least two years healthcare or health service administration  
 2 experience with at least one year of supervisory experience in home care  
 3 or a closely related health program.
- 4 (C) The administrator shall have the overall responsibility to ensure the following:
- 5 (1) The agency's **skilled health services are** ~~is~~ in compliance with all  
 6 applicable federal, state and local laws,
- 7 (2) The completion, maintenance and submission of such reports and  
 8 records as required by the department,
- 9 (3) Ongoing liaison with the governing body, staff members and the  
 10 community,
- 11 (4) A current organizational chart to show lines of authority down to the  
 12 consumer level,
- 13 (5) The management of the business affairs and the overall operation of the  
 14 agency,
- 15 (6) Maintenance of appropriate personnel records, financial and  
 16 administrative records and all policies and procedures of the agency,
- 17 (7) Employment of qualified personnel in accordance with written job  
 18 descriptions,
- 19 (8) Orientation of new staff, regularly scheduled in-service education  
 20 programs and opportunities for continuing education for the staff,
- 21 (9) Designate in writing the qualified staff member to act in the absence of  
 22 the administrator, and
- 23 (10) Availability of the administrator or designee at all hours employees are  
 24 providing services, at minimum any eight-hour period between 7 a.m.  
 25 and 7 p.m. Monday through Friday.
- 26 (11) Marketing, advertising and promotional information accurately represents  
 27 the HCA and addresses the care, treatment and services that the HCA  
 28 can provide directly or through contractual arrangement.

29 7.6 Curriculum for Administrator Training

- 30 (A) A first-time administrator or alternate administrator shall complete a total of 24  
 31 hours of training in the administration of an agency before the end of the first 12  
 32 months after designation to the position.
- 33 (B) A first-time administrator or alternate administrator shall complete eight (8) clock  
 34 hours of educational training in the administration of an agency within the first  
 35 month of employment. The eight (8) clock hours shall include, at a minimum, the  
 36 following topics:
- 37 1) Home care overview;
- 38 2) Information on the licensing standards for the agency;

- 1                                   3)       Information on state and local laws applicable to the agency.
  
- 2                   (C)       A first-time administrator or alternate administrator shall complete an additional  
3                                   16 clock hours of educational training before the end of the first 12 months after  
4                                   designation to the position. Any of the 16 hours may be completed prior to  
5                                   designation if completed during the 12 months immediately preceding the date of  
6                                   designation to the position. The additional 16 clock hours shall include the  
7                                   following subjects and may include other topics related to the duties of an  
8                                   administrator:
  - 9                                   (1)       Consumer rights, governing body and administrator responsibilities,  
10   professional advisory committee, quality management plans, occurrence  
11   reporting, and complaint investigation and resolution process,
  - 12                                   (2)       Personnel qualifications, experience, competency and evaluations,
  - 13                                   (3)       Financial management,
  - 14                                   (4)       Ethics in healthcare,
  - 15                                   (5)       Needs of the fragile, ill and physically and cognitively disabled in the  
16   community setting with special training and staffing considerations,
  - 17                                   (6)       Behavior management techniques,
  - 18                                   (7)       Staffing methodologies and oversight of scheduling,
  - 19                                   (8)       Staff training and supervision,
  - 20                                   (9)       Limitations of personal care versus health care services.
  
- 21                   (D)       The 24-hour education requirement shall be met through structured, formalized  
22                                   classes, correspondence courses, competency-based computer courses, training  
23                                   videos, distance learning programs, or other training courses. Subject matter  
24                                   that deals with the internal affairs of an organization does not qualify for credit.  
25                                   The training shall be provided or produced by an academic institution, a  
26                                   recognized state or national organization or association, an independent  
27                                   contractor, or an agency.
  - 28                                   (1)       If an agency or independent contractor provides or produces training, the  
29   training shall first be approved by the department or recognized by a  
30   national organization or association. The agency shall maintain  
31   documentation of this approval for review by inspectors.
  
- 32                   (E)       Documentation of administrator or alternate administrator training must be on file  
33                                   at the agency and contain the name of the class or workshop, the course content  
34                                   or curriculum, the hours and dates of the training, and the name and contact  
35                                   information of the entity and trainer who provided the training.
  
- 36                   (F)       After completion of the 24 hours of educational training within the first 12 months  
37                                   after designation as a first-time administrator or alternate administrator, each  
38                                   must then complete the continuing education requirements in each subsequent  
39                                   12-month period after designation.

- 1 (G) An administrator shall complete 12 clock hours of continuing education within  
2 each 12-month period beginning with the date of designation. The education  
3 shall include at least two of the following topics and may include other topics  
4 related to the duties of the administrator.
- 5 (1) Any of the topics listed under the initial training requirements,  
6 (2) Development and implementation of agency policies,  
7 (3) Healthcare management,  
8 (4) Ethics,  
9 (5) Quality improvement,  
10 (6) Risk assessment and management,  
11 (7) Financial management,  
12 (8) Skills for working with consumers, families and other professional service  
13 providers,  
14 (9) Community resources,  
15 (10) Marketing.
- 16 (H) For an administrator or alternate administrator who was an administrator prior to  
17 June 1, 2009, but had not served as an administrator for 180 days or more  
18 immediately preceding the date of designation, at least eight (8) of the 12 clock  
19 hours within the first 12 months after designation shall include the topics listed for  
20 first time administrators. The remaining four clock hours shall include topics  
21 related to the duties of the administrator and include at least two (2) of the topics  
22 listed under continuing education. If a previous administrator has not been  
23 employed as such for two (2) years or more, the requirements for a first time  
24 administrator apply.
- 25 7.7 Nursing or Healthcare Supervisor
- 26 (A) The skilled nursing services furnished shall be under the supervision and  
27 direction of a physician or registered nurse who has at least two (2) years of  
28 nursing experience including one (1) year in home care or a closely related  
29 service. Other healthcare services shall be under the supervision and direction  
30 of a physician, registered nurse, or other licensed healthcare professional who  
31 has at least two (2) years healthcare experience in the field of supervision  
32 including one year experience in home care or a closely related service.
- 33 (B) This person, or similarly qualified alternate, shall be available at all times during  
34 operating hours and participate in all activities relevant to the professional  
35 services furnished, including the development of qualifications and the  
36 assignment of personnel.
- 37 7.8 Personnel
- 38 (A) Each employee and contracted staff shall possess the education and experience  
39 to provide services in the homes of consumers in accordance with agency policy,

1 state practice acts and professional standards of practice as set forth in ~~the~~  
2 ~~definitions of this Chapter.~~

3 (B) Qualifications

4 Licensed, registered or certified healthcare providers shall, at a minimum, meet  
5 the following requirements:

6 (a) Be qualified as a Physician, Pharmacist, Physician Assistant,  
7 Nurse Practitioner, Clinical Social Worker, Social Worker,  
8 Physical Therapist, Occupational Therapist, Respiratory  
9 Therapist, Registered Nurse, Licensed Practical Nurse, Massage  
10 Therapist, Certified Nurse Aide or other provider licensed,  
11 registered or certified by the Department of Regulatory Affairs  
12 **Agencies** (DORA).

13 (b) Meet the requirements for license, certification or registration set  
14 forth by DORA.

15 (2) Staff not regulated under DORA shall, at a minimum, meet the following  
16 requirements.

17 A speech-language pathologist shall:

18 (a) Possess a current Certificate of Clinical Competence in speech  
19 pathology or audiology granted by the American Speech-  
20 Language-Hearing Association, or

21 (b) Meet the educational requirements for certification and be in the  
22 process of accumulating the supervised experience required for  
23 certification.

24 An occupational therapy assistant shall, at a minimum,

25 (a) Possess a current certification from the National Board for  
26 Certification of Occupational Therapy (NBOT).

27 A physical therapist assistant shall:

28 (a) Have completed a physical therapist assistant program  
29 accredited by the commission on accreditation in physical  
30 therapy or any comparable successor entity;

31 (b) Be registered, licensed or certified as a physical therapist  
32 assistant in another state; or

33 (c) Be otherwise qualified to take the physical therapy examination.

34 ~~An independent living skills trainer shall:~~

35 ~~(a) Be a health care professional with one year of experience in~~  
36 ~~providing functionally based assessment and skills training of~~  
37 ~~individuals with disabilities; or~~

- 1 ~~(b) Be an individual with a bachelor's degree and two years of~~  
 2 ~~similar experiences; or~~
- 3 ~~(c) Be an individual with an AA degree in social service or human~~  
 4 ~~relations area with three years of experience; or~~
- 5 ~~(d) Hold certification as a Certified Brain Injury Specialist by the~~  
 6 ~~American Academy for the Certification of Brain Injury~~  
 7 ~~Specialists.~~

8 An X-ray technician shall:

- 9 (a) Have successfully completed a program of formal training in X-  
 10 ray technology of not less than 24 months in a school approved  
 11 by the Committee on Allied Health Education and Accreditation  
 12 of the American Medical Association or by the American  
 13 Osteopathic Association, or
- 14 (b) Have earned a bachelor's or associate degree in radiological  
 15 technology from an accredited college or university.

16 A phlebotomist shall:

- 17 (a) Have successfully completed an approved phlebotomy training  
 18 course or equivalent experience through previous employment;  
 19 and
- 20 (b) Have two years of verifiable phlebotomy experience.

21 (C) Training

- 22 (1) Ongoing training shall be provided to all direct care staff. Training  
 23 requirements shall be consistent with the program, services and  
 24 equipment it provides and are appropriate to the needs of the  
 25 populations served.
- 26 (2) Training shall consist of at least 12 hours **topics applicable to the**  
 27 **agency's care and services** every 12 months after the starting date of  
 28 employment or calendar year as designated by agency policy. The  
 29 training requirement shall be prorated in accordance with the number of  
 30 months the employee was actively working for the agency. Training shall  
 31 include, but is not limited to, the following items:
- 32 (a) Promoting consumer dignity, independence, self-determination,  
 33 privacy, choice and rights; including abuse and neglect  
 34 prevention and reporting requirements.
- 35 (b) Behavior management techniques.
- 36 (c) Disaster and emergency procedures.
- 37 (d) Infection control including universal precautions.
- 38 (3) All training shall be documented. Classroom type trainings shall be  
 39 documented with the date of the training; starting and ending times;

1 instructors and their qualifications; short description of content; and staff  
2 member's signature. On-line or self-study trainings shall be documented  
3 with information as to the content of the training, and the entity that  
4 offered or produced the training.

5 7.9 Initial and Comprehensive Assessments

6 (A) Initial assessment visit

7 (1) A registered nurse shall conduct an initial assessment visit to determine  
8 the immediate care and support needs of the consumer. The initial  
9 assessment visit shall be held either within 48 hours of referral, or within  
10 48 hours of the consumer's return home, or on the attending provider  
11 ordered start of care date.

12 (2) When an alternate professional healthcare service is the only service  
13 ordered, the initial assessment visit may be made by the appropriate  
14 skilled healthcare professional.

15 (B) Comprehensive Assessment of Consumers

16 (1) The HCA shall accomplish an individualized comprehensive assessment  
17 that accurately reflects each consumer's current health status and  
18 includes information that may be used to demonstrate the consumer's  
19 progress toward achievement of the desired outcomes.

20 (2) The comprehensive assessment shall identify the consumer's need for  
21 home care and meet the consumer's medical, nursing, rehabilitative,  
22 social, and discharge planning needs.

23 (3) The comprehensive assessment shall be completed in a timely manner,  
24 consistent with the consumer's immediate needs, but no later than five  
25 calendar days after the start of care.

26 (4) Except as otherwise indicated in this section, a registered nurse shall  
27 complete the comprehensive assessment.

28 (5) When healthcare services other than nursing are ordered by the  
29 physician, the primary professional healthcare worker shall complete the  
30 comprehensive assessment.

31 (6) The comprehensive assessment shall include a review of all medications  
32 the consumer is currently using in order to identify any potential adverse  
33 effects and drug reactions, including ineffective drug therapy, significant  
34 side effects, significant drug interactions, duplicate drug therapy, and  
35 noncompliance with drug therapy.

36 (a) The HCA shall report any concerns to the attending physician,  
37 and the director of nursing and these reports shall be acted  
38 upon.

39 (7) The comprehensive assessment shall be updated and revised as  
40 frequently as the consumer's condition warrants due to a major decline  
41 or improvement in the consumer's health status, ~~but not less frequently~~  
42 **than including, at a minimum:**

- 1 (a) ~~A minimum of e~~Every 60 days beginning with the start-of-care  
2 date; and
- 3 (b) Within 48 hours of the consumer's return to the home from a  
4 hospital admission of 24 hours or more for any reason other than  
5 diagnostic tests **or, for non-certified agencies, as ordered by**  
6 **the physician or intermediate care provider.**
- 7 (C) Provision of skilled services
- 8 (1) The HCA shall have written policies regarding nurse delegation. The  
9 policy shall delineate what tasks or procedures may or may not be  
10 delegated, the delegation process, documentation, and how the delegate  
11 shall be supervised in accordance with state regulation. If the HCA  
12 prohibits delegation, there shall be a policy that specifies such  
13 prohibition.
- 14 7.10 Plan of Care
- 15 (A) Care follows a written plan of care established and periodically reviewed by a  
16 doctor of medicine, osteopathy, or podiatric medicine. Care plans established by  
17 a nurse practitioner or physician assistant may be accepted by an HCA that is  
18 not federally certified as a home health agency.
- 19 (1) The plan of care shall be developed in consultation with the agency staff  
20 and covers all pertinent diagnoses, including mental status, types of  
21 services, identification of any services furnished by other providers and  
22 how those services are coordinated, equipment required, frequency and  
23 duration of visits, prognosis, rehabilitation potential, functional limitations,  
24 activities permitted, instructions for timely discharge or referral, and any  
25 other appropriate items.
- 26 (a) The plan of care shall identify the consumer's continuing need  
27 for home care and meet the consumer's medical, nursing,  
28 rehabilitative, social, and discharge planning needs.
- 29 (b) The plan of care reflects the participation of the consumer to the  
30 extent possible. The HCA communicates the plan of care to the  
31 consumer/caregiver in a comprehensible way.
- 32 (B) If a physician or intermediate care provider refers a consumer under a plan of  
33 care that cannot be completed until after an evaluation visit, the attending  
34 physician or attending intermediate care provider shall be consulted to approve  
35 additions or modifications to the original plan. Orders for therapy services shall  
36 include the specific procedures and modalities to be used and the amount,  
37 frequency, and duration. The therapist, other agency personnel, and external  
38 home care providers (where applicable) shall participate in developing the plan of  
39 care.
- 40 (C) The total plan of care shall be reviewed by the attending physician or attending  
41 intermediate care provider and HCA personnel as often as the severity of the  
42 consumer's condition requires, but at least once every 60 days or more  
43 frequently when there is a significant change in condition.

- 1 (D) Agency professional staff shall promptly alert the physician or attending  
2 intermediate care provider to any changes that suggest a need to alter the plan  
3 of care.
- 4 (E) If person-to-person contact was not completed or if awaiting return response, all  
5 contacts and interactions shall be documented. The agency shall have a written  
6 policy regarding how the agency will intervene if the attending care provider  
7 cannot be contacted or does not respond timely.
- 8 (1) All orders shall contain sufficient information to carry out the order, name  
9 of the physician, intermediate care provider, and if appropriate,  
10 representative conferring the order to the HCA.
- 11 7.11 Medication Management
- 12 (A) If the plan of care includes medication administration, medication management or  
13 medication set-up, there shall be documentation as to who is responsible to  
14 monitor the medication supply, order refills, and ensure the timely delivery of  
15 medications. There shall be evidence that the plan has been developed with  
16 input from the consumer.
- 17 (1) Medication review shall be documented when new medications are  
18 prescribed.
- 19 (2) Medical review shall be documented periodically throughout the episode  
20 of care to determine if the consumers has added or eliminated  
21 medications or herbal products from the medication regime.
- 22 (B) Drugs and treatments shall be administered by agency staff only as ordered by  
23 the physician or intermediate care provider and in accordance with professional  
24 standards of practice.
- 25 (1) Influenza and pneumococcal polysaccharide vaccines may be  
26 administered per agency policy developed in consultation with a  
27 physician and after an assessment for contraindications.
- 28 (2) For consumers receiving medication administration services, a current  
29 medication administration record shall be maintained.
- 30 (3) The health professional administering medication shall monitor for  
31 effectiveness, interactions and adverse effects.
- 32 (C) If controlled drugs are being administered by the agency, there shall be a policy  
33 regarding how the drugs will be administered and monitored.
- 34 (1) Agencies shall have a written policy stating how controlled drugs will be  
35 monitored if agency staff transports the drugs from the pharmacy to the  
36 consumer.
- 37 7.12 Coordination
- 38 (A) Care coordination shall be demonstrated for each consumer at least every 30  
39 days for cases where there is more than one agency sharing the provision of the  
40 same home health services. The minutes of these case conferences shall reflect  
41 discussion and input by all the disciplines providing care to the consumer.

- 1 (B) The HCA shall be responsible for the coordination of consumer services both  
2 with internal staff and known external services providing care and services to the  
3 same consumer.
- 4 (C) All personnel furnishing services maintain liaison to ensure that their efforts are  
5 coordinated effectively and support the objectives outlined in the plan of care and  
6 as delineated through outside home care services.
- 7 (D) The clinical record, care coordination notes or minutes of case conferences  
8 establish that effective interchange, reporting, and coordination of consumer care  
9 does occur.
- 10 (E) A written summary report for each consumer shall be documented and sent to  
11 the attending primary care provider at least every 60 days.

12 7.13 Extended Care

13 Extended Care is defined as a total of six (6) or more hours of home health services  
14 provided in a 24-hour period, by a licensed agency that provides skilled health services.

15 (A) The agency shall have a contingency plan regarding how the case is managed if  
16 a scheduled employee is unable to staff the case.

17 (B) A communication record shall also be maintained in the home if a consumer is  
18 receiving extended care from a licensed or registered nurse.

19 (1) The record shall contain:

- 20 (a) The current plan of treatment,  
21 (b) Notes, containing consumer status and continuing needs.  
22 (c) Medication administration record; and  
23 (d) Any other information deemed necessary by the licensed  
24 agency.

25 (2) If ~~extended care~~ nurse aide service is the only service ~~being provided~~  
26 **providing extended care**, a home communication record is not  
27 required. Written instructions shall be maintained in the home and in the  
28 permanent record.

29 (C) The agency shall have an orientation plan for the staff providing the care to the  
30 consumers. Since extended care cases may involve highly technical services,  
31 this plan shall reflect how the agency ensures that the individuals providing the  
32 extended care are qualified to provide these types of services.

33 (D) Contracting for Extended Care Services

34 (1) A licensed HCA may contract with another entity to provide extended  
35 care in the licensed agency's service area provided that administration,  
36 care and supervision down to the consumer care level is ultimately the  
37 responsibility of the primary agency.

38 (2) The contract shall be in conformance with section 6.18 of this Chapter.

- 1 (3) The contracted staff shall have completed the agency orientation and  
 2 competency appraisal for provisions of care and services for the  
 3 extended care consumer. Staff credentialing, orientation, and  
 4 competency appraisal documentation shall be kept at the primary  
 5 agency.
- 6 (E) Prior to withdrawing skilled nursing or ~~certified~~ nurse aide services for an  
 7 extended care consumer, the HCA shall:
- 8 (1) Show continuing and documented efforts to resolve conflicts unless the  
 9 safety of staff is placed at immediate risk;
- 10 (2) Provide evidence that ongoing efforts were made to recruit staff or place  
 11 with another agency; and
- 12 (3) Give the consumer or authorized representative ~~30~~ **15 business** days  
 13 notice, ~~in writing~~, of the intent to discharge the consumer unless staff or  
 14 consumer's safety is at immediate risk. **The HCA shall have evidence**  
 15 **that such notice was delivered in person or by certified mail.**
- 16 7.14 Skilled Nursing Services
- 17 (A) The registered nurse shall be responsible for the following:
- 18 (1) The initial evaluation visit,
- 19 (2) Regularly reevaluating the consumer's nursing needs,
- 20 (3) Initiating the plan of care and necessary revisions,
- 21 (4) Furnishing those services requiring substantial and specialized nursing  
 22 skill,
- 23 (5) Initiating appropriate preventive and rehabilitative nursing procedures,
- 24 (6) Preparing clinical notes, coordinating services, and informing the  
 25 physician and other personnel of changes in the consumer's condition  
 26 and needs,
- 27 (7) Counseling the consumer and family in meeting nursing and related  
 28 needs, and
- 29 (8) Participating in in-service programs, ~~and~~ supervising, and ~~teaching~~  
 30 other nursing personnel.
- 31 (B) The licensed practical nurse shall be responsible for the following:
- 32 (1) Furnishing services in accordance with agency policies,
- 33 (2) Preparing clinical notes,
- 34 (3) Assisting the physician, intermediate care provider and registered nurse  
 35 in performing specialized procedures.

1 (4) Preparing equipment and materials for treatments, observing aseptic  
2 technique as required, and

3 (5) Assisting the consumer in learning appropriate self-care techniques.

4 7.15 Nurse Aide Services

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

10 (B) The agency shall ensure that each nurse aide it employs is certified by the  
11 Department of Regulatory Agencies within four months of starting employment.  
12 and that certification remains current. Each aide providing care and services  
13 before certification shall be supervised in the home by direct observation at least  
14 weekly for the first month of employment and every two weeks thereafter until  
15 certification is obtained.

16 (C) The agency shall complete a competency assessment with direct observation of  
17 each nurse aide before assignment in accordance with section 7.16 of this  
18 Chapter.

19 (D) For all consumers who are receiving skilled care and need ~~certified~~ nurse aide  
20 services, the supervising healthcare professional shall, during supervisory visits,  
21 accomplish the following:

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

25 (a) Details such as, but not limited to, housekeeping duties and  
26 standby assistance, shall be negotiated and included on the  
27 ~~certified~~ nurse aide assignment form so that all obligations and  
28 expectations are clear.

29 (b) The ~~certified~~ nurse aide assignment form shall contain  
30 information regarding special functional limitations and needs,  
31 safety considerations, special diets, special equipment, and any  
32 other information that is pertinent to the care that will be given by  
33 the aide.

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

38 (d) Provide each consumer and/or the consumer's authorized  
39 representative with a new copy of the consumer rights form and  
40 explain those rights at least annually.

41 (e) If nurse aide services are provided to a consumer who is  
42 receiving in-home care by a health professional, the supervising  
43 health care professional, in accordance with the professional's

1 scope of practice and state and federal law, shall make an on-  
 2 site supervisory visit to the consumer's home no less frequently  
 3 than every two weeks to supervise the ~~certified~~ nurse aide.  
 4 Direct observation of care being provided by the nurse aide shall  
 5 occur at least every 60 days. More frequent direct supervision  
 6 shall occur if there are adverse changes in the consumer's  
 7 condition, complaints received associated with the provision of  
 8 care by an aide, supervision requested by the **CNA nurse aide**  
 9 or consumer for specific issues, or other matters concerning the  
 10 provisions of care by the **CNA nurse aide**.

11 (f) If nurse aide services are provided to a consumer who is not  
 12 receiving in-home care by a health professional, a supervisory  
 13 visit with the nurse aide present at the consumer's home shall  
 14 occur no less frequently than every 60 days. More frequent  
 15 direct supervision shall occur if there are adverse changes in the  
 16 consumer's condition, complaints received associated with the  
 17 provision of care by an aide, supervision requested by the **CNA**  
 18 **nurse aide** or consumer for specific issues, or other matters  
 19 concerning the provisions of care by the **CNA nurse aide**.

20 7.16 ~~Certified~~ Nurse Aide Training and Orientation

- 21 (A) The HCA shall ensure that skills learned or tested elsewhere can be transferred  
 22 successfully to the care of the consumer in his/her place of residence. This  
 23 review of skills could be done when the nurse installs an aide into a new  
 24 consumer care situation, during a supervisory visit, or as part of the annual  
 25 performance review. A mannequin may not be used for this evaluation.
- 26 (B) If the HCA's admission policies and the case-mix of HCA consumers demand  
 27 that the aide care for individuals whose personal care and basic nursing or  
 28 therapy needs require more complex training than the minimum required in the  
 29 regulation, the HCA shall document how these additional skills are taught and  
 30 validated.
- 31 (C) The HCA shall establish a process for standardized, step-by-step observation  
 32 and evaluation of ~~certified~~ nurse aide competency in the following subject areas  
 33 prior to the assignment of tasks requiring direct observation of items (3), (9), (10)  
 34 and (11) of this paragraph (C).
- 35 (1) Communications skills.
- 36 (2) Observation, reporting and documentation of consumer status and the  
 37 care or service furnished.
- 38 (3) Reading and recording temperature, pulse, and respiration.
- 39 (4) Basic infection control procedures.
- 40 (5) Basic elements of body functioning and changes in body function that  
 41 shall be reported to an aide's supervisor.
- 42 (6) Maintenance of a clean, safe, and healthy environment.
- 43 (7) Recognizing emergencies and knowledge of emergency procedures.

- 1 (8) The physical, emotional, and developmental needs of and ways to work  
2 with the populations served by the HCA, including the need for respect  
3 for the consumer, his or her privacy and property.
- 4 (9) Appropriate and safe techniques in personal hygiene and grooming that  
5 include:
- 6 (a) Bathing
- 7 (i) Bed/sponge,
- 8 (ii) Tub, and
- 9 (iii) Shower.
- 10 (b) Shampoo
- 11 (i) Sink,
- 12 (ii) Tub, and
- 13 (iii) Bed.
- 14 (c) Nail and skin care.
- 15 (d) Oral hygiene.
- 16 (e) Toileting and elimination.
- 17 (10) Safe transfer techniques and ambulation.
- 18 (11) Normal range of motion and positioning.
- 19 (12) Adequate nutrition and fluid intake.
- 20 (D) Written assignment and instructions for the ~~certified~~ nurse aide (~~CNA~~) shall be  
21 prepared by the registered nurse or other appropriate professional who is  
22 responsible for the supervision of the **nurse aide CNA**.
- 23 (1) The ~~CNA~~ **nurse aide** assigned and instructed to provide only those  
24 services the aide is permitted to perform under state law and deemed  
25 competent to perform.
- 26 (2) The written assignment reflects the consumer's plan of care orders.
- 27 (3) The written instructions of the assignment shall consider the skills of the  
28 **CNA nurse aide**, the amount and kind of supervision needed, and the  
29 specific nursing or therapy needs of the consumer.
- 30 (a) The written instructions shall detail the procedures for the  
31 consumer's unique care needs.
- 32 (b) The written instructions shall identify when the **CNA nurse aide**  
33 should report to the supervising professional.

1 (4) The written assignment and instructions shall be reviewed every 60 days  
2 or more frequently as changes in the consumer's status and needs  
3 occur.

4 7.17 Therapy Services

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

12 (B) Supervision of therapy assistants

13 (1) A physical therapist assistant, occupational therapy assistant or  
14 respiratory therapy assistant performs services directed from a written  
15 plan of care, delegated, and supervised by a qualified therapist, assists  
16 in preparing clinical notes and progress reports, and participates in  
17 educating the consumer and family, and participates in in-service  
18 programs. Onsite supervision shall occur in accordance with the  
19 agency's policies and procedures, plan of care and professional  
20 standards of practice.

21 7.18 Medical Social Services

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

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

25 (1) Assisting the physician, or intermediate care provider and other team  
26 members in understanding the significant social and emotional factors  
27 related to the health problems,

28 (2) Participating in the development of the plan of care,

29 (3) Preparing clinical notes,

30 (4) Working with the family,

31 (5) Using appropriate community resources,

32 (6) Participating in discharge planning and in-service programs, and

33 (7) Acting as a consultant to other agency personnel.

34 7.19 Other Health Care Services

35 (A) Any health care services offered by the HCA directly or under arrangement are  
36 given by a qualified healthcare professional or by qualified healthcare  
37 professional assistant under the supervision of a qualified healthcare  
38 professional and in accordance with the plan of care. The qualified healthcare  
39 professional assists the physician or intermediate care provider in evaluating the

1 needs of the consumer, helps develop the plan of care (revising it as necessary),  
2 prepares clinical notes, advises and consults with the family and other agency  
3 personnel, and participates in in-service programs.

4 (B) Supervision of assistants

5 (1) An assistant to the healthcare professional performs services directed  
6 from a written plan of care, delegated, and supervised by a qualified  
7 health professional, assists in preparing clinical notes and progress  
8 reports, and participates in educating the consumer and family, and  
9 participates in in-service programs. Onsite supervision shall occur in  
10 accordance with policy and procedure, the plan of care and professional  
11 standards of practice.

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

13 8.1 Governing Body

14 (A) Each agency shall have a governing body having legal authority and  
15 responsibility for the conduct of the agency. At least one member shall have  
16 knowledge of agency operations.

17 (B) For the purposes of this section, the governing body shall:

18 (1) Have bylaws or the equivalent, which shall be reviewed and be revised  
19 as needed.

20 (2) The bylaws or the equivalent shall specify the objectives of the agency.

21 (3) Designate and employ an agency manager.

22 (4) Adopt, review annually and revise as needed, policies and procedures  
23 for the operation and administration of the agency.

24 (5) Review the operation of the agency at least annually.

25 (6) Keep minutes of all meetings.

26 (7) Provide and maintain a fixed office location, that provides for consumer  
27 confidentiality and a safe working environment.

28 (8) Organization, services furnished, administrative control and lines of  
29 authority for the delegation of responsibility down to the consumer care  
30 level that are clearly set forth in writing and are readily identifiable.

31 8.2 Administration

32 (A) The agency shall have written administrative policies and procedures to ensure  
33 safe and adequate care of the consumer.

34 8.3 Agency Manager

35 (A) A personal care services agency shall designate a person to supervise the  
36 provision of services through the licensed home care personal services agency.

- 1 (B) The agency manager shall meet the following qualifications:
  - 2 (1) Be at least 21 years of age, possess a high school diploma or GED, at  
3 at least one year documented supervisory experience in the provision of  
4 personal care services.
  - 5 (2) Be able to communicate and understand return communication  
6 effectively in exchanges between the consumer, family representatives,  
7 and other providers.
  - 8 (3) Have successfully completed an eight (8) hour agency manager training  
9 course. Additional related annual training that equals 12 hours shall be  
10 required in the first year and annually thereafter.
    - 11 (a) Any person commencing service as an agency manager after  
12 January 1, 2011, shall meet the minimum training requirements  
13 approved by the department pursuant to section 8.3(D) of this  
14 Chapter; or provide documented and confirmed previous job  
15 related experience or related education equivalent to successful  
16 completion of such program. The department may require  
17 additional training to ensure that all the required components of  
18 the training curriculum are met.
    - 19 (b) A copy of the Certificate of Completion shall be retained in the  
20 agency manager's personnel file.
    - 21 (c) Any person already serving as an agency manager on  
22 December 31, 2010 shall either meet subparagraph (3) above or  
23 meet the minimum training requirements in one of the following  
24 ways:
      - 25 (i) Successful completion of a program approved by the  
26 department, pursuant to Section 8.3(D) of this Chapter if  
27 completed within a period of six (6) months following  
28 January 1, 2011;
      - 29 (ii) Submission of evidence of successful completion of  
30 such training within the previous five (5) years before  
31 January 1, 2011; or
      - 32 (iii) Documented and confirmed previous job related  
33 experience equivalent to successful completion of such  
34 a program that encompasses the items in section  
35 8.3(D)(2) of this Chapter.
  - 36 (4) Be familiar with all applicable local, state, and federal laws and  
37 regulations concerning the operation and provision of home care  
38 services.
- 39 (C) The agency manager shall be responsible for ensuring:
  - 40 (1) The agency is in compliance with all applicable federal, state and local  
41 laws,

- 1 (2) Completion, maintenance and submission of such reports and records as  
2 required by the department,
- 3 (3) Ongoing liaison with the governing body, staff members and the  
4 community,
- 5 (4) A current organizational chart to show lines of authority down to the  
6 consumer level,
- 7 (5) Appropriate personnel, bookkeeping and administrative records and  
8 policies and procedures of the agency,
- 9 (6) Orientation of new staff, regularly scheduled in-service education  
10 programs and opportunities for continuing education for the staff,
- 11 (7) Designation in writing the qualified staff member to act in the absence of  
12 the manager, and
- 13 (8) Availability of the manager or designee at all hours employees are  
14 providing services.
- 15 (9) All marketing, advertising and promotional information accurately  
16 represent the HCA and address the care, treatment and services that the  
17 HCA can provide directly or through contractual arrangement.
- 18 (D) An agency manager training program shall be approved by the department if:
- 19 (1) The program or program components are conducted by an accredited  
20 college, university or vocational school; or an organization, association,  
21 corporation, group, or agency with specific expertise in that area; and the  
22 curriculum includes at least eight (8) actual hours of training.
- 23 (2) Instruction includes, at a minimum, discussion of each the following  
24 topics:
- 25 (a) Home care overview including other agency types providing  
26 services and how to interact and coordinate with each including  
27 limitations of personal care versus health care services.
- 28 (b) Regulatory responsibilities and compliance including, but not  
29 limited to,
- 30 (i) Consumer rights,
- 31 (ii) Governing body responsibilities,
- 32 (iii) Quality management plans,
- 33 (iv) Occurrence reporting, and
- 34 (v) Complaint investigation and resolution process.
- 35 (c) Personnel qualifications, experience, competency and  
36 evaluations, staff training and supervision.

1 (d) Needs of the fragile, ill and physically and cognitively disabled in  
2 the community setting regarding special training and staffing  
3 considerations,

4 (e) Behavior management techniques

5 8.4 Supervisor

6 (A) The supervisor shall:

7 (1) Be at least 18 years of age,

8 (2) Have appropriate experience or training in the home care industry or  
9 closely related personal care services in accordance with agency policy,  
10 and

11 (3) Have completed training in the provision of personal care services.

12 8.5 Personal Care Worker

13 (A) A personal care worker shall have completed agency training or have verified  
14 experience in the provision of home care tasks to consumers and passed a  
15 competency evaluation.

16 (B) Personal care service employees shall provide services in accordance with the  
17 policies and requirements of the agency as well as the service arrangements  
18 spelled out in the service plan.

19 (C) The duties of personal care worker may include the following:

20 (1) Observation and maintenance of the home environment that ensures the  
21 safety and security of the consumer.

22 (2) Assistance with household chores including cooking and meal  
23 preparation, cleaning, and laundry.

24 (3) Assistance in completing activities such as shopping, and appointments  
25 outside the home.

26 (4) Companionship, including but not limited to social interaction,  
27 conversation, emotional reassurance, and encourage reading, writing  
28 and activities that stimulate the mind.

29 (5) Assistance with activities of daily living, personal care, and any other  
30 assignments as included in the service plan.

31 (6) Completion of appropriate service notes regarding service provision each  
32 visit. Documentation shall contain services provided, date and time in  
33 and out and a confirmation that care was provided. Such confirmation  
34 shall be according to agency policy.

35 (D) In order to delineate the types of services that can be provided by a personal  
36 care worker, the following are examples of limitations where skilled home health  
37 care would be needed to meet higher needs of the consumer.

- 1 (1) Skin Care. A personal care worker may perform general skin care  
2 assistance. Skin care may be performed by a personal care ~~service~~  
3 worker only when skin is unbroken, and when any chronic skin problems  
4 are not active. The skin care provided by a personal care worker shall  
5 be preventative rather than therapeutic in nature and, may include the  
6 application of non-medicated lotions and solutions, or of lotions and  
7 solutions not requiring a physician's prescription. Skilled skin care  
8 includes wound care other than basic first aid, dressing changes,  
9 application of prescription medications, skilled observation and reporting.  
10 Skilled skin care should be provided by an agency licensed to provide  
11 home health services.
- 12 (2) Ambulation. A personal care worker may generally assist consumers  
13 with ambulation who have the ability to balance and bear weight. If the  
14 consumer has been determined by a health professional to be  
15 independent with an assistive device, a personal services worker may be  
16 assigned to assist with ambulation.
- 17 (3) Bathing. A personal care worker may assist consumers with bathing.  
18 When a consumer has skilled skin care needs or skilled dressings that  
19 will need attention before, during or after bathing, the consumer should  
20 be in the care of an agency licensed to provide home health services.
- 21 (4) Dressing. A personal care worker may assist a consumer with dressing.  
22 This may include assistance with ordinary clothing and application of  
23 support stockings of the type that can be purchased without a physician's  
24 prescription. A personal care ~~service~~ worker shall not assist with  
25 application of an Ace bandage and anti-embolic or pressure stockings  
26 that can be purchased only with a physician's prescription.
- 27 (5) Exercise. A personal care worker may assist a consumer with exercise.  
28 However, this does not include assistance with a plan of exercise  
29 prescribed by a licensed health care professional. A worker may remind  
30 the consumer to perform ordered exercise program. Assistance with  
31 exercise that can be performed by a personal care ~~service~~ worker is  
32 limited to the encouragement of normal bodily movement, as tolerated,  
33 on the part of the consumer and, encouragement with a prescribed  
34 exercise program. Passive range of motion (ROM) shall not be  
35 performed by a personal care worker.
- 36 (6) Feeding. Assistance with feeding may generally be performed by a  
37 personal service worker. Personal care workers can assist consumers  
38 with feeding when the consumer can independently chew and swallow  
39 without difficulty and be positioned upright. Assistance by a personal  
40 care worker does not include syringe, tube feedings and intravenous  
41 nutrition. Whenever there is a high risk that the consumer may choke as  
42 a result of the feeding the consumer should be in the care of an agency  
43 licensed to provide home health services.
- 44 (7) Hair care. As a part of the broader set of services provided to  
45 consumers who are receiving personal services, personal care service  
46 agencies may assist consumers with the maintenance and appearance  
47 of their hair. Hair care within these limitations may include shampooing  
48 with non-medicated shampoo or shampoo that does not require a  
49 physician's prescription, drying, combing and styling of hair.

- 1 (8) Mouth care. A personal care worker may assist and perform mouth care.  
2 This may include denture care and basic oral hygiene. Mouth care for  
3 consumers who are unconscious, has difficulty swallowing or at risk for  
4 choking and aspiration should be performed by an agency licensed to  
5 provide home health services.
- 6 (9) Nail care. Assistance with nail care can be generally performed by a  
7 personal care worker. This assistance may include soaking of nails,  
8 pushing back cuticles without utensils, and filing of nails. Assistance by  
9 a personal care worker shall not include nail trimming. Consumers with a  
10 medical condition that might involve peripheral circulatory problems or  
11 loss of sensation should be under the care of an agency licensed to  
12 provide home health services to meet this need.
- 13 (10) Positioning. A personal care worker may assist a consumer with  
14 positioning when the consumer is able to identify to the personal care  
15 staff, verbally, non-verbally or through others, when the positions needs  
16 to be changed and only when skilled skin care, as previously described,  
17 is not required in conjunction with the positions. Positioning may include  
18 simple alignment in a bed, wheelchair, or other furniture.
- 19 (11) Shaving. A personal care worker may assist a consumer with shaving  
20 only with an electric or a safety razor.
- 21 (12) Toileting. A personal care worker may assist a consumer to and from  
22 the bathroom, provide assistance with bedpans, urinals, and commodes;  
23 pericare; or changing of clothing and pads of any kind used for the care  
24 of incontinence.
- 25 (13) A personal care worker may empty urinary collection devices, such as  
26 catheter bags. In all cases, the insertion and removal of catheters and  
27 care of external catheters is considered skilled care and shall not be  
28 performed by a personal care ~~service~~ worker.
- 29 (14) A personal care worker may empty ostomy bags and provide assistance  
30 with other consumer-directed ostomy care only when there is no need for  
31 skilled skin care or for observation or reporting to a nurse. A personal  
32 care worker shall not perform digital stimulation, insert suppositories or  
33 give an enema.
- 34 (15) Transfers. A personal care worker may assist with transfers only when  
35 the consumer has sufficient balance and strength to reliably stand and  
36 pivot and assist with the transfer to some extent. Adaptive and safety  
37 equipment may be used in transfers, provided that the consumer and  
38 personal care worker is fully trained in the use of the equipment and can  
39 direct the transfer step by step. Adaptive equipment may include, but is  
40 not limited to wheel chairs, tub seats and grab bars. Gait belts may be  
41 used in a transfer as a safety device for the personal care ~~service~~ worker  
42 as long as the worker has been properly trained in its use.
- 43 (a) A personal care worker shall not perform assistance with  
44 transfers when the consumer is unable to assist with the transfer.  
45 Personal care workers, with training and demonstrated  
46 competency, may assist a consumer in a transfer involving a lift  
47 device.

- 1 (b) A personal care worker may assist the informal caregiver with  
2 transferring the consumer provided the consumer is able to  
3 direct and assist with the transfer.
- 4 (16) Medication reminding. A personal care worker may assist a consumer  
5 with medication reminding only when medications have been  
6 preselected, by the consumer, a family member, a nurse, or a  
7 pharmacist, and are stored in containers other than the prescription  
8 bottles, such as medication minders. Medication minder containers shall  
9 be clearly marked as to day and time of dosage, and reminding includes:  
10 inquiries as to whether medications were taken; verbal prompting to take  
11 medications; handing the appropriately marked medication minder  
12 container to the consumer; and, opening the appropriately marked  
13 medication minder container for the consumer if the consumer is  
14 physically unable to open the container. These limitations apply to all  
15 prescription and all over-the-counter medications. Any irregularities  
16 noted in the pre-selected medications, such as medications taken too  
17 often or not often enough, or not at the correct time as marked in the  
18 medication minder container, shall be reported immediately by the  
19 personal care ~~service~~ worker to the supervisor.
- 20 (17) Respiratory care is considered skilled care and ~~may~~ **shall** not be  
21 performed by a personal care worker. Respiratory care includes postural  
22 drainage, cupping, adjusting oxygen flow within established parameters,  
23 nasal, endotracheal, and tracheal suctioning.
- 24 (a) Personal care workers may temporarily remove and replace a  
25 cannula or mask from the consumer's face for the purposes of  
26 shaving, washing a consumer's face.
- 27 (b) Personal care workers may set a consumer's oxygen flow  
28 according written instruction when changing tanks, provided the  
29 personal care worker has been specifically trained and  
30 demonstrated competency for this task.
- 31 (18) Accompaniment. Accompanying the consumer to medical appointments,  
32 banking errands, basic household errands, clothes shopping, grocery  
33 shopping or other excursions to the extent necessary and as specified on  
34 the service plan may be performed by the personal care worker when all  
35 the care that is provided by the personal care staff in relation to the trip is  
36 unskilled personal care, as described in these regulations.
- 37 (19) Protective Oversight. A personal care worker may provide protective  
38 oversight including stand-by assistance with any personal care task  
39 described in these regulations. When the consumer requires protective  
40 oversight to prevent wandering, the personal care worker shall have  
41 been trained in appropriate intervention and redirection techniques.
- 42 (20) Respite Care and Companionship. A personal care worker may provide  
43 respite and companionship in the consumer's home according to the  
44 service plan as long as the necessary provision of services during this  
45 time does not include skilled personal care services as described in this  
46 regulation.
- 47 (21) Housekeeping Services. A personal care worker may provide  
48 housekeeping services, such as dusting, vacuuming, mopping, cleaning

1 bathroom and kitchen areas, meal preparation, dishwashing, linen  
 2 changes, laundry, and shopping in accordance with the service contract.  
 3 Where meal preparation is provided, the personal care worker should  
 4 receive instruction regarding any special diets required to be prepared.

5 (E) In addition to the exclusions prescribed in the preceding section, the agency shall  
 6 not allow personal care workers to:

7 (1) Perform skilled ~~personal care~~ **home health** services as defined in  
 8 **section 3.20 of this section-Chapter;**

9 (2) Perform or provide medication set-up for a consumer; or

10 (3) Perform other actions specifically prohibited by agency policy,  
 11 regulations or law.

12 (F) Supervision of a personal care worker shall:

13 (1) Be performed by a qualified employee of the agency who is in a  
 14 designated supervisory capacity and available to the worker for  
 15 questions at all times;

16 (2) Provide on-site supervision at a minimum every three (3) months and  
 17 includes an assessment of consumer satisfaction with services and the  
 18 personal care worker's adherence to the service plan.

19 (3) Include evaluation of each personal care worker providing services at  
 20 least annually. The evaluation shall include observation of tasks  
 21 performed and relationship with the consumer.

## 22 8.6 Personal Care Worker Training

23 (A) All personal care staff shall complete agency orientation before independently  
 24 providing services to consumers. Orientation shall include:

25 (1) Employee duties and responsibilities;

26 (2) A description of the services provided by the agency;

27 (3) The differences in personal care, ~~CNA~~ **nurse aide** care and health care  
 28 in the home including limiting factors for the provision of personal care;

29 (4) Consumer rights including freedom from abuse or neglect, and  
 30 confidentiality of consumer records, personal, financial and health  
 31 information;

32 (5) Hand washing and infection control;

33 (6) Assignment and supervision of services;

34 (7) Observation, reporting and documentation of consumer status and the  
 35 service furnished;

36 (8) Emergency response policies and emergency contact numbers for the  
 37 agency and for the individual consumer assigned,

- 1 (9) Training and competency evaluation of appropriate and safe techniques  
 2 in all personal care tasks for each assigned task to be conducted before  
 3 completion of initial training.
- 4 (B) ~~A minimum of 16 hours of~~ Training within the first 45 days of employment shall  
 5 be provided, ~~inclusive of~~ **in addition to** orientation, which can include self-study  
 6 courses with demonstration of learned concepts, and are applicable to the  
 7 employee's responsibilities. Initial training shall include, but is not limited, to:
- 8 (1) Communication skills in areas such as with persons who are hard of  
 9 hearing, have dementia, or other special needs.
- 10 (2) Appropriate training in accordance with the needs of special needs  
 11 populations served by the agency including communication and behavior  
 12 management techniques.
- 13 (3) Appropriate and safe techniques in ~~all~~ personal care tasks **prior to**  
 14 **assignment**. Areas include bathing, skin care, hair care, nail care,  
 15 mouth care, shaving, dressing, feeding, assistance with ambulation,  
 16 exercises and transfers, positioning, bladder care, bowel care,  
 17 medication reminding, homemaking tasks, and protective oversight.
- 18 (4) Recognizing emergencies and knowledge of emergency procedures  
 19 including basic first aid, home and fire safety.
- 20 (5) The roles of, and coordination with, other community service providers.
- 21 (6) Maintenance of a clean, safe and healthy environment, including  
 22 appropriate cleaning techniques and sanitary meal preparation.
- 23 (C) Initial orientation or training shall not be required under the following  
 24 circumstances:
- 25 (1) For returning employees that meet all of the following conditions:
- 26 (a) The employee completed ~~training and competency assessment~~  
 27 ~~required by this section by~~ the agency's **required training and**  
 28 **competency assessment** at the time of initial employment;
- 29 (b) The employee ~~had~~ **successfully** completed the agency's  
 30 required competency assessment ~~employment or became~~  
 31 ~~inactive no more than 12 months before the date~~ **at the time of**  
 32 rehire or reactivation;
- 33 (c) The employee did not have performance issues directly related  
 34 to consumer care and services in the prior active period of  
 35 employment, and
- 36 (d) All orientation, training and personnel action documentation is  
 37 retained in the personnel files.
- 38 (2) Employees with proof of current healthcare related licensure or  
 39 certification shall be exempt from initial training in the provision of  
 40 personal care tasks if such training is recognized as included in the  
 41 training for that health discipline. The agency shall provide orientation

1 and perform a competency evaluation to ensure the employee is able to  
2 appropriately perform all personal care tasks.

3 (3) Employees moving from one office to another in the same agency are  
4 not subject to the initial orientation and training requirements, provided  
5 previous training is documented and the offices have the same  
6 orientation and training procedures.

7 (D) The agency is responsible for ensuring that the individuals who furnish personal  
8 care services on its behalf are competent to carry out all assigned tasks in the  
9 consumer's place of residence.

10 (1) **Prior to assignment, the agency manager or supervisor shall**  
11 **conduct a proof of competency evaluation involving the tasks listed in**  
12 **this subsection (D)(1), along with any other tasks that require**  
13 **specific hands-on application.** ~~conducted by the agency manager or~~  
14 ~~supervisor of the agency shall address each of the following subjects~~  
15 ~~through supervisory observation:~~

- 16 (a) Bathing,
- 17 (b) Skin care,
- 18 (c) Hair care,
- 19 (d) Nail care,
- 20 (e) Mouth care,
- 21 (f) Shaving,
- 22 (g) Dressing,
- 23 (h) Feeding,
- 24 (i) Assistance with ambulation,
- 25 (j) Exercise and transfers,
- 26 (k) Positioning,
- 27 (l) Bladder and bowel care, and
- 28 (m) Medication reminding.

29 (2) Performance of the ability to assist in the use of specific adaptive  
30 equipment if the worker will be assisting consumers who use the device.

31 (E) The agency shall ensure that ongoing supervisory and direct care staff training  
32 occurs and shall consist of at least six (6) ~~hours~~ **topics applicable to the**  
33 **agency's services** every 12 months after the starting date of employment or  
34 calendar year as designated by agency policy. The training requirement shall be  
35 prorated in accordance with the number of months the employee was actively  
36 working for the agency. Training shall include, but is not limited to, the following  
37 items:

- 1 (1) Behavior management techniques and the promotion of consumer  
2 dignity, independence, self-determination, privacy, choice and rights;  
3 including abuse and neglect prevention and reporting requirements.
- 4 (2) Disaster and emergency procedures.
- 5 (3) Infection control using universal precautions.
- 6 (4) Basic first aid and home safety.
- 7 (F) Training documentation
- 8 (1) All training shall be documented.
- 9 (a) Classroom type trainings shall be documented with the date of  
10 the training; starting and ending times; instructors and their  
11 qualifications; short description of content; and staff member's  
12 signature.
- 13 (b) On-line or self-study trainings shall be documented with  
14 information as to the content of the training and the entity that  
15 offered or produced the training.