

1 **XXVI - HOME CARE AGENCIES**

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

3 1.1 The statutory authority for the promulgation of these rules is set forth in Sections 25-1.5-
4 103 and 25-27.5-101, *et seq.*, C.R.S.

5 1.2 A home care agency, as defined herein, shall comply with all applicable federal and state
6 statutes and regulations, including but not limited to, the following:

7 (A) ~~This~~ **The sections of this Chapter XXVI that apply to the classification of**
8 **license issued.**

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

11 1.3 These regulations incorporate by reference materials originally published elsewhere.
12 Such incorporation does not include later amendments to or editions of the referenced
13 material. The Department of Public Health and Environment maintains copies of the
14 complete text of the incorporated materials for public inspection during regular business
15 hours, and shall provide certified copies of the incorporated material at cost upon
16 request. Information regarding how the incorporated material may be obtained or
17 examined is available from:

18
19 Division Director
20 Health Facilities and Emergency Medical Services Division
21 Colorado Department of Public Health and Environment
22 4300 Cherry Creek Drive South
23 Denver, CO 80246
24 Phone: 303-692-2800

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

28 **Section 2 – ~~Definitions~~ Purpose**

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

35 **Section 3 - Definitions**

36 3.1 Authorized representative – [to be defined]

37 3.2 “Branch office” means a location or site from which a home health agency provides
38 services within a portion of the total geographic area served by the parent agency. The
39 branch office is part of the home care agency and is located sufficiently close to share
40 administration, supervision, and services in a manner that renders it unnecessary for the
41 branch independently to meet the requirements of this Chapter.

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- 1 3.3 “Bylaws” means a set of rules adopted by a Home Care Agency for governing the
2 agency’s operation.
- 3 3.4 “Certified Home Care Agency “ means an agency that is certified by either the Federal
4 Centers for Medicare and Medicaid Services (CMS) or the Colorado Department of
5 Health Care Policy and Financing to provide skilled home health or personal care
6 services.
- 7 3.5 “Clinical note” means a written notation of a contact with a consumer that is signed, **with**
8 **date and time**, by a member of the home care agency that describes signs and
9 symptoms; treatment; education; drugs administered and the consumer’s reaction; and
10 any changes in physical or emotional condition.
- 11 3.6 “Department” means the Colorado Department of Public Health and Environment.
- 12 3.7 “Encounter/Service note” means a written notation **that is signed, with date and time**,
13 by a member of the home care agency evidencing the care furnished.
- 14 3.8 **“Geographic Area” means an area of land, for which the agency shall be licensed,**
15 ~~consisting of not more than a 60-mile radius~~ ^[DF1] **surrounding the home care**
16 **agency’s primary location. A home care agency that provides a substantial**
17 **portion of services in one or more rural healthcare shortage areas may apply for an**
18 **extension of the geographic service area. There is no restriction as to the number**
19 **of agencies that may provide services in a particular geographic area.**
- 20 3.9 “Home Care Agency” means any sole proprietorship, partnership, association,
21 corporation, government or governmental subdivision or agency subject to the restrictions
22 in Section 25-1.5-103(1)(a)(II), C.R.S., not-for-profit agency, or any other legal or
23 commercial entity that manages and offers, directly or by contract, skilled home health
24 services or personal care services to a home care consumer in the home care
25 consumer’s temporary or permanent home or place or residence. Home Care Agency is
26 also referred to in this Chapter as “HCA” or “agency.”
- 27 (A) A residential facility that delivers skilled home health or personal care services
28 which the facility is not licensed to otherwise provide, shall either be licensed as
29 a home care agency or require the skilled home health or personal care services
30 to be delivered by a licensed home care agency.
- 31 (B) “Home Care Agency” does not include:
- 32 (1) Organizations that provide only housekeeping services;
- 33 (2) Community and rural health networks that furnish home visits for the
34 purpose of public health monitoring and disease tracking;
- 35 (3) An individual who is not employed by or affiliated with a home care
36 agency and who acts, alone, without employees or contractors;
- 37 (4) Outpatient rehabilitation agencies and comprehensive outpatient
38 rehabilitation facilities certified pursuant to Title XVIII or XIX of the “Social
39 Security Act”, as amended;
- 40 (5) Consumer-directed attendant programs administered by the Colorado
41 Department of Health Care Policy and Financing;

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- 1 (6) Licensed dialysis centers that provide in-home dialysis services,
2 supplies, and equipment;
- 3 (7) Subject to the requirements of section 25-27.5-103(3), C.R.S., a facility
4 otherwise licensed by the department; or
- 5 (8) A home care placement agency as defined in this section.
- 6 3.10 "Home care consumer" means a person who receives skilled home health services or
7 personal care services in his or her temporary or permanent home or place of residence
8 from a home care agency or home care placement agency.
- 9 3.11 "Home care placement agency" means an organization that, for a fee, provides only
10 referrals of providers to home care consumers seeking services. A home care placement
11 agency does not provide skilled home health services or personal care services to a
12 home care consumer in the home care consumer's temporary or permanent home or
13 place of residence directly or by contract. Such organizations shall follow the
14 requirements of sections 25-27.5-103(2), 25-27.5-104(1)(c), 25-27.5-107, C.R.S., and
15 section 4 of this Chapter
- 16 **3.12 "Intermediate care provider" means nurse practitioner or physician assistant.**
- 17 3.13 "Parent home care agency" means the agency that develops and maintains
18 administrative control of branch offices.
- 19 3.14 "Personal care services" means assistance with activities of daily living, including but not
20 limited to bathing, dressing, eating, transferring, walking or mobility, toileting, and
21 continence care. It also includes housekeeping, personal laundry, medication reminders,
22 and companionship services furnished to a home care consumer in the home care
23 consumer's temporary or permanent home or place of residence, and those normal daily
24 routines that the home care consumer could perform for himself or herself were he or she
25 physically capable, which are intended to enable that individual to remain safely and
26 comfortably in the home care consumer's temporary or permanent home or place of
27 residence.
- 28 3.15 "Plan of Correction" means a written plan prepared by the HCA and submitted to the
29 department for approval, that specifies the measures the HCA shall take to correct all
30 cited deficiencies.
- 31 3.16 "Progress note" means a written notation **that is signed, with date and time**, by a
32 member of the home care agency that summarizes facts about the care furnished and
33 the consumer's response during a given period of time.
- 34 3.17 "Skilled home health services" means health and medical services furnished to a home
35 care consumer in the home care consumer's temporary or permanent home or place of
36 residence that include wound care services; use of medical supplies including drugs and
37 biologicals prescribed by a physician; in-home infusion services; nursing services; home
38 health aide or certified nurse aide services that require the supervision of a licensed or
39 certified health care professional acting within the scope of his or her license or
40 certificate; occupational therapy; physical therapy; respiratory care services; dietetics and
41 nutrition counseling services; medication administration; medical social services; and
42 speech-language pathology services. "Skilled home health services" does not include the
43 delivery of either durable medical equipment or medical supplies.
- 44 3.18 "State Board" means the State Board of Health.

1 3.19 “Subdivision” means a component of a multi-function health agency, such as the home
2 care department of a hospital or the nursing division of a health department, which
3 independently meets the licensure requirements for HCAs. A subdivision that has branch
4 offices is considered a parent agency.

5 3.20 “Summary report” means the compilation of the pertinent factors of a home care
6 consumer's clinical notes and progress notes that is submitted to the home care
7 consumer's physician.

8 3.21 “Supervision” means authoritative procedural guidance by a qualified person for the
9 accomplishment of a function or activity. Unless otherwise specified in this Chapter, the
10 supervisor shall be on the premises to supervise an individual.

11 **Section 4 – Placement Agency Registration and Disclosures**

12 **4.1 Registration**

13 (A) **On or after June 1, 2009, each home care placement agency shall notify the**
14 **Department in writing that it provides referrals for home care services to**
15 **consumers and shall annually update such notice.**

16 (B) **The person(s) responsible for the operation of any placement agency that**
17 **fails to register with the Department may be subject to a civil penalty**
18 **assessed by the Department of not less than five hundred dollars per year**
19 **or more than one thousand dollars per year.**

20 (C) **The placement agency shall require and document that a criminal history**
21 **background check has been conducted on any individual seeking to be**
22 **placed by the agency. The criminal history background check shall be**
23 **conducted within 90 days before employment of the individual.**

24 **4.2 Disclosures**

25 (A) **The placement agency shall provide a written disclosure notice to the**
26 **consumer or legal representative, before services are rendered, that**
27 **specifies the service provided by the placement agency and the**
28 **consumer’s obligation regarding employment of the home care worker.**

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

32 (1) **Liability for the home care worker while in the consumer’s home,**

33 (2) **Payment of wages to the home care worker.**

34 (3) **Payment of employment and social security taxes,**

35 (4) **Payment of unemployment, workers’ compensation and general**
36 **liability insurance,**

37 (5) **Supervision of the home care worker,**

38 (6) **Scheduling of the home care worker,**

- 1 (7) **Assignment of duties to the home care worker,**
- 2 (8) **Hiring, firing and discipline of the home care worker,**
- 3 (9) **Provision of equipment or materials for the home care worker's use**
4 **in providing services to the consumer, and**
- 5 (10) **Ensuring home care worker training and qualifications meet the**
6 **needs of the consumer.**

7 PART 2 - LICENSURE PROCEDURES

8 5.1 **License Classification**

9 **(A)** A home care agency shall be assigned a license classification consistent with the
10 type and extent of services provided. ~~The Department shall determine the~~
11 ~~license classification for each HCA applicant based upon the following criteria:~~
12 **Each licensed agency shall meet the general requirements section of these**
13 **regulations. Each agency shall also be required to meet the specific**
14 **requirements of the [HCAC2] required for each assigned license**
15 **category[HCAC3].**

16 **(B)** **The Department shall determine the license classification for each HCA**
17 **applicant based upon the following criteria:**

18 Class A – a **home care** agency that provides skilled nursing service and at least
19 one other therapeutic service such as physical, speech or occupational therapy;
20 medical social service or home health aide service. Any agency licensed as
21 Class A shall meet and maintain compliance with the federal requirements for
22 certification as a home health agency. The Class A license includes all other
23 home care classifications (Class B, and Class C, *Class D, Class E and Class F*)
24 for [HCAC4]all services provided through the same physical address or in an
25 approved branch location.

26 Class B – a **home care** agency that provides one or more professional home
27 care services, but either does not meet certification requirements or does not
28 wish to seek federal certification for home care services. In addition to the listed
29 Class A services, an HCA may provide as a single service or in combination:
30 wound care, infusion services, respiratory therapy, case management which
31 includes in-home visits or care, in-home X-ray and diagnostic services, and other
32 in-home services requiring either care or oversight by a health professional.

33 Class C – a **home care** agency that provides in-home services including
34 personal care services, ~~in-home support services, independent living skills~~
35 ~~services [HCAC5]or other services in the place of the consumer's residence meets~~
36 and maintains compliance with state home and community based waiver (HCBS)
37 certification requirements for such programs. The license includes services
38 provided under the Class D license.

39 Class D – a **home care** agency that provides personal care services in the place
40 of residence of the consumer **and is not certified to provide Medicare or**
41 **Medicaid services.** Services provided do not require an order or supervision
42 from a health professional.

~~Class E – a home care agency that provides IHSS administrative management.~~[HCAC6]

Class F – a home care agency that provides independent living skills.[HCAC7]

A primary license may be further designated with the sub-classification below:

Subclass 1 [HCAC8]– PACE and other inclusive care programs that are not licensed as another entity, but only a portion of the total services provided are related to home care. This subclass shall meet the requirements for the primary license class unless alternate requirements are addressed under [PACE section].

Subclass 2 –[HCAC9] licensed residential facilities providing services outside the provisions of their primary license in the home of the consumer. This subclass shall meet the primary class license unless alternate requirements are addressed under [residential facility section].

(B) When an HCA adds a category of service, the agency shall notify the Department. The Department shall then request from the agency the appropriate information needed to determine if the agency meets the regulatory requirements for the category of service being requested. Once this determination is made, the Department shall make the appropriate changes to the license.

(C) If an HCA discontinues a category of service, the agency shall notify the Department. Notification shall include information on how the agency will ensure appropriate transfer of the affected home care consumers.

(D) Each agency that is licensed Class A, B or C, D, E, F, or G shall meet the general requirements section of these regulations. According to services provided, each agency shall also be required to meet the specific requirements for skilled care and/or personal care.[HCAC10]

5.2 Licensure Procedure

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

(B) When submitting an application for an initial or renewal license, the HCA shall also include evidence of either liability insurance coverage or a surety bond in lieu of liability insurance coverage in the amount specified for the classification of services provided.

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

(D) No license shall be issued or renewed by the department if the owner, applicant, or licensee of the home care agency has been convicted of a felony or of a misdemeanor, which felony or misdemeanor involves moral turpitude or involves

1 conduct that the department determines could pose a risk to the health, safety, or
2 welfare of the HCA's consumers.

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

7 (F) No license shall be transferred from one location to another without prior
8 approval from Department as provided in this subsection. If an agency is
9 considering moving, changing the licensed physical address, the agency **shall**
10 **notify the** Department 30 days prior to the intended relocation in accordance
11 with **6 CCR 1011-1, Chapter II, section 2.9.2.** [HCAC11]

12 (1) To retain the current license, the new **physical** location shall be
13 relocated within the existing geographic service area, **provide the same**
14 **services**, serve the same consumer base[HCAC12], and retain the same
15 employees. [HCAC13]

16 (a) If the move causes a shift in the existing geographic service
17 area, existing consumers may remain on service until the time of
18 final discharge.¹

19 ¹Final discharge is when goals for the current episode of care or services are met and does not include
20 temporary absences or when the consumer no longer wants or requires services.

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

23 [HCAC14](G) If the department denies an application for an HCA license, the
24 department shall notify the applicant in writing of such denial **and reasons for**
25 **such denial [DF15]** by mailing a notice to the applicant at the address shown on the
26 application. The notice shall also inform the agency of its right to appeal the
27 denial and the procedure for appealing the denial.

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

30 5.3 Provisional licenses

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

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

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

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

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

6 5.4 License Fees

7 [To be determined with guidance from statute and advisory group]

8 Unless otherwise specified in this chapter, all licensing fees paid to the Department shall be
9 deemed non-refundable.

10 5.5 Inspections

11 (A) An onsite inspection shall determine if standards for licensure are being met
12 before the initial license is issued, except for agencies that were state or federally
13 certified before June 1, 2009.

14 (B) If an agency wishes to add an additional service category to an already existing
15 license, the Department may determine if specific standards are met by
16 correspondence or by an onsite visit before approval.

17 (C) Agencies applying for licensure shall receive an initial inspection. Subsequent
18 inspections shall be conducted on risk based inspection cycle. Inspection cycles
19 for state and federally certified agencies before June 1, 2009 shall be prioritized
20 by the agency's most recent survey for certification and information submitted in
21 regard to changes in the agency's ownership, management and services since
22 the most recent survey.

23 (1) Four to eight month inspection cycles include one of more of the
24 following:

25 (a) Agencies with deficiencies cited during the most recent survey of
26 one or more consumer care incidents that caused or had high
27 potential to cause serious consumer harm,

28 (b) Agencies found to have more than 20 deficiencies on the last
29 inspection or survey,

30 (c) Agencies in the first year of operation.

31 (2) Nine to 15 month inspection cycles include one or more of the following:

32 (a) Agencies licensed or certified less than three years,

33 (b) Agencies with a substantiated complaint regarding consumer
34 care, staff supervision or qualifications since the last inspection
35 or survey; or

36 (c) Receipt by the Department of more than three separate
37 complaints during the most recent six-month period or four

- 1 complaints during the most recent 12-month period if the
2 complaints were in regard to consumer care¹,
- 3 (d) Agencies found to have deficiencies relating to potential or actual
4 consumer harm during the last inspection,
- 5 (e) Agencies found to have more than ten deficiencies on the last
6 inspection or survey,
- 7 (f) Agencies that have had a change of ownership or a significant
8 change in management staff [HCAC16]or addition of services not
9 previously declared.
- 10 (3) Eighteen to 24 month inspection cycles include:
- 11 (a) Agencies found to have more than five deficiencies on the last
12 inspection or survey but were not placed on the nine to 15 month
13 inspection cycle,
- 14 (b) Receipt by the department of two complaints during the most
15 recent six-month period or three complaints during the most
16 recent 12-month period,
- 17 (c) Agencies found to have deficiencies relating to supervision,
18 management, or staff qualifications during the last inspection, but
19 did not result in substantial risk to consumers.
- 20 (4) Thirty to 36 month inspection cycles include:
- 21 (a) Agencies with no deficient practice affecting consumer care,
22 supervision or staff qualifications,
- 23 (b) No substantiated complaints regarding consumer care,
24 supervision or staff qualifications since the last inspection,
- 25 (c) Receipt by the department of less than three complaints during
26 the most recent twelve-month period,
- 27 (d) No change in ownership or substantial management changes;
- 28 (e) Agencies found to have no more than five deficiencies on the
29 last inspection or survey and were not placed on the 18-24
30 month inspection cycle.

31 5.6 Plan of Correction

- 32 (A) An HCA shall submit to the department a written plan of correction detailing
33 measures that will be taken by the agency to correct deficiencies found as a
34 result of inspections.
- 35 (1) A plan of correction shall include, but not be limited to, the following:

¹ Multiple complaints regarding the same issue within a 30-day period or by the same complainant will be considered one complaint for the purposes of this section.

- 1 (a) ~~Identification of the root cause of the deficient practice cited;~~
2 Identification of the root cause of the deficient practice
3 cited; problem(s) with the current activity and what the agency
4 will do to correct each deficiency; HCAC17]
- 5 (b) The plan to correct the deficiency cited;
- 6 (c) A description of how the agency will accomplish the corrective
7 action(s).
- 8 (d) A description of how the agency will monitor the corrective action
9 to ensure the deficient practice is remedied and will not recur,
- 10 (e) Identification, by title, of who is responsible for implementation of
11 the corrective action; and
- 12 (f) A timeline with the expected implementation and completion
13 date. Completion date is the date that the agency deems it can
14 achieve compliance.
- 15 (B) Corrective actions shall be implemented within 30 days of the exit date or as
16 determined by the Department. Corrective actions shall be implemented
17 within 30 days of the date the POC is accepted exit date—[DF18] or as
18 determined by the Department.
- 19
- 20 (C) A completed plan of correction shall be:
- 21 (1) Submitted to the department in the form and manner required by the
22 Department.
- 23 (2) Submitted within ten calendar days after the date of the department's
24 written notice of deficiencies, and
- 25 (3) Signed by the agency administrator.
- 26 (D) The department has the discretion to approve, modify or reject plans of
27 correction.
- 28 (1) If the plan of correction is acceptable, the department shall notify the
29 agency.
- 30 (2) If the plan of correction is unacceptable, the department shall notify the
31 agency in writing and the agency shall re-submit changes to the
32 department within the time frame specified by the department.
- 33 (3) If the agency fails to comply with the requirements or deadlines for
34 submission of a plan or fails to submit requested changes to the plan, the
35 department may reject the plan of correction and impose intermediate
36 restrictions or other disciplinary sanctions as set forth below.
- 37 (4) If the agency fails to timely implement the actions agreed to in the plan of
38 correction, the department may impose intermediate restrictions or other
39 disciplinary sanctions as set forth below.

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1 5.7 Intermediate restrictions or conditions

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

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

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

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

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

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

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

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

21 (1) The agency shall remedy the circumstances creating the harm or
22 potential harm immediately upon receiving notice of the restriction of
23 condition.

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

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

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

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

37 5.8 Revocation or suspension

38 (A) The department shall revoke or refuse to renew the license of a home care
39 agency where the owner or licensee has been convicted of a felony or
40 misdemeanor involving moral turpitude or conduct that the department

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1 determines could pose a risk to the health, safety, or welfare of the consumer of
2 such agency.

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

6 5.9 Summary suspension

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

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

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

17 5.10 Civil fines

18 (A) If the department assesses a civil fine pursuant to this section, the money
19 received by the department shall be transmitted to the state treasurer, who shall
20 credit the same to the home care agency cash fund created in section 25-27.5-
21 105, C.R.S.

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

23 (1) Continuing monitoring required by this section;

24 (2) Education for agencies to avoid restrictions or conditions or facilitate the
25 processes for application or change of ownership; **Education for**
26 **agencies to avoid restrictions or conditions or facilitate the processes for**
27 **application or change of ownership**[DF19];

28

29 (3) Education for consumers and their families about resolving problems
30 with an agency, rights of consumers and responsibilities of agencies;

31 (4) Providing technical assistance to any home care agency for the purpose
32 of complying with changes in rules or state or federal law;

33 (5) Monitoring and assisting in the transition of consumers to other agencies,
34 when the transition is the result of the revocation of a license, or other
35 appropriate medical services; or

36 (6) Maintaining the operation of an agency pending correction of violations,
37 as determined necessary by the department.

38 **Section 6 – General Requirements For All License Categories**

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1 6.1 Out of State Entities

2 Every HCA providing skilled home health and/or personal care services within the State,
3 shall have a physical business office capable of conducting day to day business **as a**
4 home care agency within Colorado and shall be licensed according to the services
5 rendered.

6 6.2 Branch Offices and Work Stations

7 (A) The agency shall notify the Department in advance of the plan to establish a
8 branch office. Notification shall include:

9 (1) A description of the services to be provided which shall not be greater
10 than the parent agency.~~DF20 (which shall be the same as the parent~~
11 ~~agency).~~

12 (2) The geographic area to be served by the branch office, and

13 (3) A description of exactly how supervision by the parent agency will occur.

14 (B) All branch offices shall be subject to approval by Department. Once the agency
15 receives approval to establish the requested branch office, the agency shall
16 notify the Department of the branch office address, telephone number, and the
17 name and qualifications of the branch supervisor.

18 (C) Onsite supervision of the branch office shall be conducted by the parent agency
19 administrator, manager or supervisor at least every month in accordance with
20 agency policy. The supervisory visits shall be documented and include the date
21 of the visit, the content of the consultation, the individuals in attendance, and the
22 recommendations of and to the staff. In addition, branch supervision shall
23 include consumer record review, branch inclusion in the agency's quality
24 assurance activities, meetings with the branch supervisor, and home visits.

25 (D) A full-time health professional who possesses the experience, education and
26 qualifications to oversee all care and services provided by the branch shall be
27 assigned to the branch office and shall be available during all operating hours.
28 This oversight responsibility may be transferred to a parent office manager in the
29 scheduled absence of the branch health care professional. During the absence of
30 the branch health professional the daily overseeing may be managed
31 electronically~~DF21~~. This person shall be an employee of the agency.

32 (1) If only personal care services are provided, an employee that meets the
33 qualifications of a non-medical/private duty ~~DF22~~ supervisor shall be
34 assigned to the branch and shall be available during all operating hours.

35 (E) All admissions shall be coordinated through the parent agency and a current
36 roster of consumers shall be maintained by the parent agency at all times.

37 (F) The lines of authority and professional and administrative control are clearly
38 delineated in both organizational structure and in practice and can be traced to
39 the parent agency.

40 (G) The location of the branch, in relation to the parent, is such that the parent is able
41 to assure adequate supervision at all times.

1 (H) The parent office maintains current personnel records on all staff. A copy of all
2 agency policies is maintained in each branch for staff usage. Contracted
3 arrangements with various entities are the responsibility of the parent agency,
4 even when the contracted services are used exclusively by the branch. The
5 branch office should retain the clinical records for its consumers, since the
6 branch site is where the staff providing the services are located.

7 6.3 Background Checks see next page

8 The home care agency shall require and document that a criminal history background
9 check has been conducted on any individual hired to care for consumers on behalf
10 of the agency. The criminal history background check shall be conducted within
11 90 days before employment of the individual. [HCAC23]

12 ON AND

13 AFTER JUNE 1, 2009, PRIOR TO EMPLOYING OR PLACING ANY PERSON, THE
14 HOME CARE AGENCY OR HOME CARE PLACEMENT AGENCY SHALL REQUIRE
15 THE PERSON SEEKING EMPLOYMENT OR PLACEMENT TO SUBMIT TO A
16 CRIMINAL HISTORY RECORD CHECK. THE HOME CARE AGENCY OR HOME
17 CARE PLACEMENT AGENCY OR THE PERSON SEEKING EMPLOYMENT WITH THE
18 HOME CARE AGENCY SHALL PAY THE COSTS OF SUCH INQUIRY. THE
19 CRIMINAL HISTORY RECORD CHECK SHALL BE CONDUCTED NOT MORE THAN

20 NINETY DAYS PRIOR TO THE EMPLOYMENT OF THE APPLICANT.

21 [HCAC24]

22 6.4 Consumer Rights

23 (A) Assurance of rights

24 (1) The HCA shall establish and implement written policies and procedures
25 regarding the rights of consumers and the implementation of these
26 rights. A complete statement of these rights, including the right to file a
27 complaint with the department, shall be distributed to all staff and
28 contracted personnel upon hire [HCAC25] ~~and annually thereafter.~~

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

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

33 (b) The consumer has the right to be assured that the HCA shall not
34 condition the provision of care or otherwise discriminate against
35 a consumer based on personal, cultural or ethnic preference; or
36 whether the consumer has an advance directive.

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

38 (B) Notice of rights

39 (1) The HCA shall provide the consumer with a written notice of the
40 consumer's rights in a manner that the consumer understands before the
41 initiation of care or services to that consumer. The notice shall include

1 what to do if rights are violated. The notice shall be prescribed by the
2 Department and accessible at the Department's website.

3 (a) If a consumer cannot read the statement of rights, it shall be
4 read to the consumer in a language the consumer understands.
5 If the consumer is a minor or needs assistance in understanding
6 these rights, the HCA shall inform the consumer and the parent,
7 legal guardian or other responsible person.

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

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

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

15 (3) The consumer has the right to be treated with courtesy, consideration,
16 respect, and recognition of his or her dignity, individuality and right to
17 personal privacy.

18 (4) The consumer has the right to confidentiality concerning consumer
19 services and disclosures regarding personal and health information or
20 home status to others who do not have a need to know such information.

21 (5) The consumer has the right to be informed of the full name, licensure
22 status, staff position and employer of all persons with whom the
23 consumer has contact and is supplying, staffing or supervising care or
24 services. The consumer has the right to be served by agency staff who
25 are properly trained and competent to perform their duties.

26 (6) The consumer has the right to live free from involuntary confinement,
27 and to be free from physical or chemical restraints as defined in 6 CCR
28 1011-1, Chapter II, Part 8.

29 (7) The consumer has the right to express complaints verbally or in writing
30 about services or care that is or is not furnished, or about the lack of
31 respect for the consumer's person or property by anyone who is
32 furnishing services on behalf of the HCA. The consumer has the right to
33 know how to contact an individual employed with the HCA who is
34 responsible for the complaint intake and problem resolution process.

35 (8) The consumer has the right to be involved in and seek resolution to
36 ethical issues in the consumer's care or services within the framework
37 established by the HCA.

38 (9) The consumer has the right to choose a home care agency without fear
39 of retribution from other agencies or their staff.

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

- 1 (1) The HCA shall inform the consumer in advance about the care and
2 services to be furnished, and of any changes in the care and services to
3 be furnished to enable the consumer to give informed consent.
- 4 (a) The consumer has the right to refuse treatment within the
5 confines of the law, to be informed of the consequences of such
6 action and to be involved in experimental research only upon the
7 consumer's voluntary written consent.
- 8 (b) The consumer has the right to be told in advance of receiving
9 care about the services that will be provided, the disciplines that
10 will furnish care, the frequency of visits proposed to be furnished,
11 and the consequences of refusing care or services.
- 12 (c) The consumer has the right to know, in advance, any limits to the
13 services available from an agency and the agency's grounds for
14 termination of services. The consumer has the right to know, in
15 advance, any limits to the services available from an agency
16 [HCAC26]and the agency's grounds for termination of
17 services.[HCAC27]
- 18
- 19 (2) The HCA shall offer the consumer the right to participate in developing
20 the plan of care and receive instruction and education regarding the plan.
- 21 (a) Before commencing services, the HCA shall inform and
22 distribute written information to the consumer concerning the
23 agency's policies on advance directives, including a description
24 of applicable state law. The HCA may furnish advance directives
25 information to a consumer at the time of the first home visit, as
26 long as the information is furnished before care is provided.
- 27 (b) The HCA shall advise the consumer in advance of the right to
28 participate in planning the care or treatment, and in planning
29 changes in the care or treatment.
- 30 (c) Each consumer shall have the right to reasonable adherence to
31 planned or scheduled visits to maintain continuity of care.
- 32 (d) Each consumer shall have a right to be admitted for service only
33 if the agency has the ability to provide safe, quality care at the
34 level of frequency and intensity needed and/or as ordered by a
35 physician.
- 36 (e) Each consumer has the right to be promptly referred to another
37 provider organization if the HCA is unable to meet the
38 consumer's needs or if the consumer is not satisfied with the
39 care he/she is receiving.
- 40 (f) Each consumer discharged for any reason shall have the right to
41 receive assistance from the HCA to find an appropriate
42 placement with another agency if the consumer continues to
43 require care and/or services upon discharge. The HCA shall
44 document due diligence in ensuring continuity of care upon

1 discharge as necessary to protect the consumer's safety and
2 welfare.

3 (g) The consumer has a right to receive coordinated care among all
4 known[HCAC28] HCA providers delivering services in the home.

5 NEW The consumer has the right to be informed of the agency
6 requirement to coordinate care with all external HCAs and to
7 refuse such in writing.[HCAC29]

8 (E) The consumer shall have the right to confidentiality of all records,
9 communications, and personal information. The HCA shall advise the consumer
10 of the agency's policies and procedures regarding disclosure of clinical
11 information and records.

12 (F) The consumer has the right to be advised, before care is initiated, of the extent to
13 which payment for the HCA services may be expected from insurance or other
14 sources, and the extent to which payment may be required from the consumer.
15 Before the care is initiated, the HCA shall inform the consumer, orally and in
16 writing, of the following:

17 (1) The extent to which payment for supplies, equipment and services may
18 be expected from all funding sources including private insurance,
19 Medicare, Medicaid, or any other government or grant funded or aided
20 program known to the HCA,

21 (2) The charges for services that will not be covered by insurance, grants or
22 donated funds, and

23 (3) The charges that the consumer or authorized representative may have to
24 pay.

25 (G) The consumer has the right to be advised of any changes in billing or payment
26 procedures before implementation.

27 (1) If an agency is implementing a scheduled rate increase to all clients, the
28 agency shall provide a written notice to each affected consumer or
29 authorized representative 30 days before implementation.

30 (2) The HCA shall advise the consumer or authorized representative of any
31 individual changes orally and in writing as soon as possible, but no later
32 than five business days from the date that the HCA becomes aware of a
33 change.

34 (3) An HCA shall not assume power of attorney or guardianship over a
35 consumer utilizing the services of the HCA, require a consumer to
36 endorse checks over to the HCA or require a consumer to execute or
37 assign a loan, advance, financial interest, mortgage or other property in
38 exchange for future services.

39 (H) The consumer has the right to be advised of the availability of the state's toll-free
40 HCA hotline. When the agency accepts the consumer for treatment or care, the
41 HCA shall advise the consumer in writing of the telephone number of the home
42 health hotline established by the state, the hours of its operation, and that the
43 purpose of the hotline is to receive complaints or questions about local HCAs.

1 The consumer also has the right to use this hotline to lodge complaints regarding
2 care received or not received including the implementation of the advance
3 directives requirements.

4 (I) The HCA shall make available to the consumer, ~~upon request a written notice~~
5 prior to the start of services, [HCAC30] listing all individuals or other legal entities
6 who have ownership or controlling interest in the agency.

7 (J) The HCA shall maintain documentation showing that it has complied with the
8 requirements of this section.

9 6.5 Disclosure Notice

10 (A) A notice as prescribed by the Department shall be provided to each consumer
11 before services are rendered showing the licensure or registration type and
12 services provided by the agency. The notice shall inform the consumer that the
13 HCA is the employer of record and adheres to all federal and state regulations
14 and rules [HCAC31] as to the responsible party for the following:

15 (1) ~~Employer of the home care worker,~~

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

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

18 (4) ~~Payment of employment and social security taxes,~~

19 (5) ~~Payment of unemployment, worker's compensation and general liability~~
20 ~~insurance,~~

21 (6) ~~Supervision of the home care worker,-~~

22 (7) ~~Scheduling of the home care worker,~~

23 (8) ~~Assignment of duties to the home care worker,~~

24 (9) ~~Hiring, firing and discipline of the home care worker,~~

25 (10) ~~Provision of equipment or materials for the home care worker's use in~~
26 ~~providing services to the consumer, and~~

27 (11) ~~Training and ensuring qualifications that meet the needs of the~~
28 ~~consumer.~~

29 (B) The disclosure notice shall be signed by the consumer or representative before
30 the start of services.

31 6.6 Non-compete agreements

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

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

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1 6.7 Complaint Processing

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

3 (1) Investigation of complaints made by a consumer or others about services
4 or care that is or is not furnished, or about the lack of respect for the
5 consumer's person or property by anyone furnishing services on behalf
6 of the HCA.

7 (2) Documentation of the existence, the investigation, and the resolution of
8 the complaint. The agency shall notify the complainant of the results of
9 the investigation and the agency's plan to resolve any validated
10 IHCAC32~~the~~ issue.

11 (3) Notification to the consumer of his or her right to appeal a corrective
12 action plan that is not agreeable to the consumer within the framework of
13 the HCA.

14 (4) Incorporation of the findings of validated issues that required changes in
15 agency IHCAC33~~its investigation~~ into its quality assurance program in
16 order to evaluate and implement systemic changes where needed.

17 (5) Explicit statement that the HCA does not discriminate or retaliate against
18 a consumer for expressing a complaint or multiple complaints.

19 (6) Maintenance of a separate record/log/file detailing all activity regarding
20 complaints received, and their investigation, and resolution thereof. The
21 ~~active~~ record shall be maintained for at least a two-year period of time
22 and shall be available for audit and inspection purposes.

23 6.8 Agency Reporting Requirements

24 (A) Each HCA shall comply with the occurrence reporting requirements set forth in 6
25 CCR 1011, Chapter II, Section 3.2.

26 (B) The agency shall investigate each reportable occurrence and institute
27 appropriate measures to prevent similar future occurrences.

28 (1) Documentation regarding the investigation, including the appropriate
29 measures to be instituted, shall be made available to the Department,
30 upon request.

31 (2) A report with the investigation findings shall be available for review by
32 the Department, upon request of the Department, upon completion of the
33 investigation. IHCAC34 ~~within five working days of the occurrence.~~

34 (C) Nothing in this section 6.8 shall be construed to limit or modify any statutory or
35 common law right, privilege, confidentiality or immunity.

36 (D) ~~An HCA shall notify the Department ten business days before the discharge of~~
37 ~~one or more consumers who require continued paid care or services to protect~~
38 ~~their health, safety or welfare, or the discontinuation of a line of service or payer~~
39 ~~source.~~

1 ~~(1) Emergency discharges necessary to protect the safety and welfare of~~
2 ~~staff shall be reported to the Department within 48 hours of the~~
3 ~~occurrence.~~

4 [HCAC35]6.9 Personnel records and policies

5 (A) Each agency shall ensure and maintain ~~documentation in~~ the employee file to
6 ~~demonstrate compliance with all federal and state regulations~~[HCAC36], ~~that all~~
7 ~~persons employed providing services as an HCA worker to render such care,~~
8 ~~comply with and document the following conditions:~~

9 ~~(1) Does not have a disqualifying background check~~

10 ~~(2) Has a copy of the Social Security card; and~~

11 ~~(3) Has visa or proof of citizenship in compliance with federal requirements~~
12 ~~for employment.~~

13 (B) Before employing any individual in a position that requires a state professional
14 license or state certification[HCAC37], the agency shall contact the Department of
15 Regulatory Agencies to verify that the individual's license is active, ~~and has not~~
16 ~~been found to have committed an act that required restriction or revocation~~
17 ~~of the license.~~ [HCAC38] A copy of the verification of the individual's license shall
18 be placed in the individual's personnel file.

19 (1) If an agency that provides only non-skilled care hires an individual with a
20 professional healthcare license, that person may not provide skilled care
21 under this license but may be utilized for non-medical care, supervision
22 or management positions.

23 (C) ~~The agency shall check the status of employee prospects that have direct~~
24 ~~consumer care responsibilities with the Colorado Nurse Aide Registry before~~
25 ~~hiring to ensure that the individual has not been found to have committed an act~~
26 ~~that would require notation on or disqualification from the registry.~~[HCAC39]

27 (D) Personnel records for all employees shall include the name and address of the
28 employee, social security number, date of birth, name and address of next of kin
29 if available[HCAC40], evidence of qualifications (including any current licensure,
30 registration, or certification that is required by state or federal law for the
31 functions performed), dates of employment and separation from the agency and
32 the reason for separation.

33 (E) Personnel policies shall be available to all full and part-time employees, and shall
34 include but not be limited to the following:

35 ~~Wage scales, fringe benefits, hours of work and leave time.~~[HCAC41]

36 - Acknowledgement and confirmation of receipt of notification regarding
37 responsible parties for various employment related duties including but not
38 limited to: supervision, ~~payment of income and employment taxes and workman's~~
39 ~~compensation insurance.~~[HCAC42]

40 - Orientation to the agency and appropriate continuing education.

41 - ~~Job descriptions for all positions utilized by the agency.~~

1 ~~Annual performance evaluation for all employees.~~

2 [HCAC43]- Compliance with all applicable requirements of the Civil Rights Act of
3 1964.

4 - Provision for confidentiality of personnel records.

5 - Employee health policies that require employees to report health symptoms and
6 exposure to any communicable or infectious disease and that specify conditions
7 under which employees are to be removed from consumer contact and
8 conditions under which employees may resume consumer contact.

9 6.10 Emergency Preparedness

10 (A) The home care agency (HCA) shall have a written emergency preparedness plan
11 that is designed to manage consumers' care and services in response to the
12 consequences of natural disasters or other emergencies that disrupt the
13 agency's ability to provide care and services or threatens the lives or safety of its
14 consumers.

15 (B) At a minimum, an agency's written emergency preparedness plan shall include
16 the following:

17 (1) The provisions for the management of all staff, who are designated to be
18 involved in emergency measures, including the assignment of
19 responsibilities and functions. All staff shall be informed of their duties
20 and be responsible for implementing the emergency preparedness plan.

21 (2) Education for consumers, caregivers and families on how to handle care
22 and treatment, safety, and/or well-being during and following instances of
23 natural (tornado, flood, blizzard, fire, etc.) and other disasters, or other
24 similar situations appropriate to the needs of the consumer.

25 (3) Staff education on emergency preparedness so that staff safety is
26 assured.

27 (4) Collection of consumer information at the time of admission and updated
28 at least annually, which shall include:

29 (a) The consumer's demographic information, including name, age,
30 full address (including county), and phone number;

31 (b) Alternate emergency contact information, if available from
32 consumer; [HCAC44]

33 (c) A list of the consumer's necessary care or services, medication
34 and equipment needs;

35 (d) Back-up sources for life-sustaining medical and equipment
36 needs, where applicable;

37 (e) Consent or declination to have personal and medical information
38 transferred to local, state and federal agencies for purposes of
39 rendering emergency services in case of an emergency or
40 disaster;

- 1 (f) Consent or declination for emergency services to enter the
2 consumer's home if an emergency or disaster occurred.
- 3 (5) Classification and prioritization of each consumer's potential care needs
4 according to the following standardized prioritization system.
- 5 Category 1: Consumers who require medical or skilled personal care;
6 special medical equipment and/or continual medical surveillance and
7 whose condition is of such a nature that healthcare services shall be
8 continued to preserve the health, safety and welfare of the consumer.
- 9 Category 2: Consumers who require **medical or skilled**[HCAC45]
10 **personal care**; special medical equipment and/or medical surveillance
11 but have the ability to provide self-care for a period of 72 hours following
12 an emergency if support systems were lost or compromised. The
13 consumer condition would be expected to deteriorate during an
14 emergency period if not provided **medical or personal**[HCAC46] **care**
15 **services**.
- 16 Category 3: Consumers who have the capacity to provide self-care for
17 greater than 72 hours following an emergency situation and whose
18 condition is unlikely to deteriorate within a 72 hour period of emergency
19 or evacuation.
- 20 (6) Maintenance of an appropriate system to aggregate consumer data into
21 a format approved by the local, county and state Offices of Emergency
22 Management and the Department. The purpose is be prepared to
23 provide accurate information to emergency responders/response
24 systems if a disaster were to occur that had the potential to or did effect
25 areas in which consumers of the HCA lived.
- 26 (C) The agency shall review its emergency preparedness plan retrospectively after
27 implementation of incident response and on an annual basis and incorporate into
28 policy any substantive changes. The written evaluation and plan revisions shall
29 be reviewed by the HCA's governing body at least annually.
- 30 6.11 Coordination with External Home Care Agencies
- 31 (A) Each HCA shall be responsible for the coordination of consumer services with
32 identified[HCAC47] external HCAs providing care and services to the same
33 consumer. The HCA shall ask the consumer if they are receiving services from
34 other home care agencies and document the response.
- 35 (1) Where concurrent services are identified, the HCA shall document
36 communication with the other HCA(s). Documentation shall include
37 coordination of care and services according to agency policy and
38 consumer care needs.
- 39 (2) Each HCA shall communicate with each identified external HCA when a
40 significant change in service or care plan occurs.
- 41 (3) No HCA shall refuse to share consumer care information upon
42 request[HCAC48], including care/service plans, planned visit information,
43 and goals of care unless the consumer has chosen to refuse
44 coordination with external HCAs.

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- 1 (4) A Hepatitis B vaccination program that complies with the requirements of
2 29 Code of Federal Regulations § 1910.1030 (2006) when there is a
3 potential for exposure to body fluids.
- 4 (5) Work restrictions to be placed on direct care staff who are known to be
5 affected with any illness in a communicable stage or to be a carrier of a
6 communicable illness or disease, afflicted with boils, jaundice, infected
7 wounds, vomiting, diarrhea or acute respiratory infections. Such
8 individuals shall not work in any capacity in which there is the likelihood
9 of transmitting disease to consumers, agency personnel or other
10 individuals within the home, or a potential of contaminating food, food
11 contact surfaces, supplies or any surface with pathogenic organisms.
- 12 6.15 Missed visits
- 13 (A) There shall be a mechanism for informing the consumer about scheduled visits in
14 accordance with agency policy. [HCAC52]Documentation shall be maintained and
15 include how and when the consumer was notified, name and discipline of
16 employee scheduled to visit, date and approximate time of arrival. Following the
17 initial visit, the consumer shall be provided with a minimum of 48 hours notice of
18 scheduled visits unless visits are mutually agreed upon sooner[HCAC53];
19 alterations in the schedule shall be provided to the consumer as soon as
20 practical.
- 21 (1) An employee shall not arrive at a consumer's home without prior notice.
- 22 (2) An employee shall present to the home with readily identifiable agency
23 identification[HCAC54][HCAC55].
- 24 [HCAC56](B) Any visit not completed according to the care/service plan, or established
25 schedule shall be documented in the consumer's service or clinical record or
26 other easily retrievable method.
- 27 (1) If the consumer cancelled the visit, the employee taking the information
28 shall document date and time of call, who the employee spoke to, reason
29 for cancellation, and how any required care would be delivered. The
30 document shall be completed on the day of receipt of the information
31 from the consumer or representative.
- 32 (2) If the agency staff cancelled the visit, documentation shall include the
33 reason for cancellation, date and time of the scheduled visit, date and
34 time the consumer or legal representative was notified, evidence
35 supervisory notification and[HCAC57] the actions taken to fill the visit and
36 how needs of the consumer was met. The document shall be completed
37 either before or on the date of cancellation.
- 38 (3) If the consumer does not respond to let staff in the home for the
39 scheduled visit, the staff shall attempt contact by phone, if still no
40 response, the agency shall contact the known[HCAC58] emergency
41 contact number or known friend or relative to ensure the consumer is
42 safe and his welfare ensured. If no contacts are available, a law
43 enforcement welfare check shall be requested. [HCAC59]All attempts to
44 ensure the safety of the consumer and the outcome of each attempt shall
45 be documented.

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- 1 (4) The services shall be provided to meet the needs of the consumer.
2 Services not delivered shall be provided as agreed upon by the
3 consumer and the HCA, except if services were verified as provided by
4 persons outside the agency. [HCAC60]
- 5 (5) If the HCA admits consumers with needs that require care or services to
6 be delivered at specific times or parts of day, the HCA shall ensure
7 qualified staff in sufficient quantity are employed by the agency or have
8 other effective back-up plans to ensure the needs of the consumer is
9 met.
- 10 (6) The back-up plan for scheduled visits shall not include calling for an
11 ambulance or other emergency services unless the presence of the
12 scheduled staff in the home would still have warranted the summons of
13 emergency services.
- 14 (7) Agency policy shall specifically address processes and procedures for
15 assignment and scheduling of staff including back-up mechanisms if
16 assigned staff cannot make the scheduled visit. [HCAC61]The policy shall
17 address processes for HCA planning for coverage of employee illness,
18 vacation, holidays and unexpected voluntary or involuntary termination of
19 employment.

20 6.16 Contracts

- 21 (A) If personnel under hourly or per visit contracts are used by the HCA, there shall
22 be a written contract between those personnel and the agency that specifies the
23 following:
- 24 (1) Home care consumers are accepted for care only by the primary HCA.
- 25 (2) The specific services to be furnished.
- 26 (3) The necessity to conform to all applicable agency policies, including
27 personnel qualifications.
- 28 (4) The responsibility for participating in developing plans of care or service.
- 29 (5) The manner in which services will be controlled, coordinated, and
30 evaluated by the primary HCA.
- 31 (6) The procedures for submitting clinical/encounter notes, scheduling of
32 visits, periodic consumer evaluation.
- 33 (7) The procedures for payment for services furnished under the contract.
- 34 (8) Annual HCA review of contract and renewal at least every three years.
- 35 (9) The contract shall specifically state the name and physical address of the
36 agency, name and address of the contractor.

37 6[HCAC62].17 Information Management System

- 38 (A) Each HCA shall implement **a policy and procedure** for an effective information
39 management system either paper-based or electronic. Processes shall include

1 effective management for capturing, reporting, processing, storing and retrieving
2 clinical/service data and information in accordance with standards of practice.

3 The system shall provide for:

- 4 (1) Privacy and confidentiality including protection of information from
5 unauthorized use or manipulation;[HCAC63]
- 6 (2) Accurate and timely documentation of care and services and
7 preservation of original documentation according to accepted standards
8 of practice[HCAC64].
- 9 (3) Organization of **the consumer record** . Standardized formats shall be
10 utilized for documenting all care, treatment and services provided to
11 consumers according to agency policy[HCAC65]. Standardization shall not
12 include **pre-filled documentation of future care and services**[HCAC66].
- 13 (4) Entries include date, time, author, discipline (if applicable) and are
14 authenticated by the author. [HCAC67]
- 15 (5) **Consumer validation of provision of care and services.**[HCAC68]

16 (B) **In addition**, electronic **consumer care and service** records, policies and
17 procedures shall be devised and implemented to ensure:

- 18 (1) **Software** protection of the data from accidental or unauthorized use.
- 19 (2) **A detailed audit and verification mechanism** of all information
20 activities such as data entry, changes to previously entered data, data
21 access.
- 22 (3) Recovery of records including contingency plans for operational
23 interruptions (hardware, software, or other systems failures), emergency
24 service plan, a back-up system **for** retrieval of data from storage and
25 information presently in the operating system. ~~The record recovery plan
26 shall be tested at least annually to ensure business interruption back-up
27 techniques are effective.~~
- 28 (4) Software program implementation will not allow **the filling or replication**
29 **of consumer assessment, treatment, and/or service data from one**
30 **record to another**, [HCAC69]**or allow for the use of a template that**
31 **automatically completes assessment data.**

32 [HCAC70]Consumer Record Content

33 (A) The record shall contain sufficient information to identify the consumer; support
34 the diagnosis or condition; justify the care, treatment, and/or services; and
35 promote continuity of care internally and externally where applicable. Such
36 records shall contain consumer-specific information as appropriate to the care,
37 treatment or services provided. **including but not limited to:**

- 38 (1) **All HCAs (personal care and skilled home health services)** shall
39 have a complete and accurate record for each consumer assessed,
40 cared for, treated or served including but not limited to:

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- 1 (a) Demographic information sufficient to identify and contact the
2 patient and provide for emergency contacts; primary physician,
3 nurse practitioner or physician assistant information, and
4 authorized representative (if applicable).
- 5 (b) The consumer's language and communication needs.
- 6 (c) Referral information including individual/agency/facility name,
7 name and phone number of contact, and specific request or
8 orders, and when services are requested to begin.
- 9 (d) Consumer's reason for admission and related health
10 information.
- 11 (e) Consumer's functional status related to care, treatment or
12 services
- 13 (f) Service plan or Plan of Care
- 14 (g) Record of each visit with the consumer. Encounter or Clinical
15 notes shall include date and time visit was initiated and
16 terminated, ~~and documentation at the point of service regarding~~
17 ~~specific care and/or services provided.~~
- 18 (h) Records of communications with the consumer regarding care,
19 treatment and services, including documentation of phone calls
20 and emails.
- 21 (i) Supervisory visits including date, time, and whether the paid care
22 giver was present at the home at the time of the visit.
- 23 (j) Communication with the consumer's physician and other care
24 providers (where applicable)
- 25 (k) Names of known home care agencies, individuals and
26 organizations involved in the consumer's care
- 27 (l) Documentation received from transferring agencies or facilities;
- 28 (m) Referrals to internal or external care providers and to community
29 services or agencies
- 30 (n) Consents, statements, disclosures, including but not limited to
31 patient rights, employment disclosures, financial responsibility,
32 consent to treatment or services and advance directive
33 information.
- 34 [HCAC71](2) In addition clinical records for HCAs providing skilled home
35 health services shall contain **where applicable:**
- 36 (a) Comprehensive assessments, progress notes and health
37 professional evaluations.

- 1 (b) Notation regarding Documentation [HCAC72] of the home's
2 adaptability or suitability for the specific care, treatment and
3 services to be provided.
- 4 (c) Hospital and emergency room records for episodes occurring
5 just prior to admission if referral is received from the hospital and
6 for known episodes **occurring while the patient is being**
7 **served by the HCA (~~when known~~) or documentation of**
8 **efforts to obtain the information.**
- 9 (d) Medical equipment provided by the HCA or related to the care,
10 treatment and services provided including assessment of
11 consumer and family comprehension of appropriate use and
12 maintenance.
- 13 (e) Consumer and family education, and training **on services or**
14 **treatments** and the use of equipment at the time of delivery to
15 the home.[HCAC73]
- 16 (f) Written summary reports and **flow sheets.**
- 17 (g) Safety measures, including education of consumer or
18 responsible party regarding safety, taken to protect the
19 consumer from harm, **including fall risk assessments,** and
20 documentation why any identified or planned safety measures
21 were not implemented or continued.[HCAC74]
- 22 (h) Allergies or sensitivities
- 23 (i) Medications including current prescription and non-prescription
24 medications, herbal products and home remedies. The
25 information shall include dose, frequency, and route of
26 administration; with on-going updates including new, changed
27 and discontinued medications and evidence of review for
28 compliance, effectiveness, drug interactions and adverse effects.
- 29 (j) Results of known Diagnostic and therapeutic procedures,
30 treatments, tests and their results (~~where known to have~~
31 ~~occurred~~), or documentation of efforts to obtain the
32 information.[HCAC75]
- 33 (k) Nutrition, medical diets or dietary restrictions
- 34 (l) Discharge and transfer summaries including documentation of
35 coordination with receiving agencies or facilities

36 Place under a survey topic

37 **Consumer records kept in the home, or individual consumer documents not**
38 **included in the permanent record within the HCA shall be made available to the**
39 **department within two hours of request if the last visit occurred 14 or more days**
40 **prior to the request; more time may be given as determined appropriate by the**
41 **department.** The consumer file and administrative records including but not limited to
42 census and demographic information, complaint, incident, meeting minutes, quality
43 assurance, and annual program review documents shall be provided to the surveyor

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1 within 30 minutes of request or as otherwise determined by the department if extenuating
2 circumstances arise.

3 [HCAC76]Residential Facilities

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

7 (B) The requirements apply to all residential facilities providing home care services
8 not covered under its primary residential care license.

9 (1) Any residential care home not licensed as a residential care facility and
10 is providing personal or health care services to its residents or other
11 consumers for a fee (either separately or in the total rate billed) shall be
12 licensed under this chapter.

13 (2) Consumer services shall be provided only upon individual service
14 contracts. The resident or consumer requiring services not covered
15 under the primary license shall be given the opportunity to contract with
16 the home care agency of their choice and shall not be restricted to the
17 use of the residential facility home care agency.

18 (3) A residential facility may not contract for nor provide health and personal
19 care services on a facility wide basis under this license. Each residential
20 facility providing facility-wide services shall be licensed according to the
21 appropriate provider type.

22 (C) The requirements for governing body, professional advisory committee,
23 complaints, occurrences and quality assurance activities may be met, in whole or
24 in part, in conjunction with like activities of the primary license. However, there
25 shall be documented oversight of the home care portion of the services provided
26 distinct from that of the primary license.

27 (D) The home care records shall be easily identifiable and separated in the
28 consumer record from the residential care records.

29 **Section – Skilled Care**

30 **Governing Body**

31 (A) ~~A governing body (or designated persons so functioning) shall assume full legal~~
32 ~~authority and responsibility for the operation of the agency. The governing body~~
33 ~~shall consist of at least three members who have business and healthcare~~
34 ~~experience sufficient to oversee the services provided by the home care agency.~~
35 ~~At least one member shall be a Colorado resident and one member shall be~~
36 ~~neither an owner, employee, nor contractor for consumer care services.~~

37 (B) ~~The governing body shall meet~~ **have a process that reviews agency**
38 **operations** ~~at least quarterly and shall maintain documentation of such review.~~

39 (C) ~~The governing body shall appoint a qualified administrator; arrange for~~
40 ~~professional advice as required by the section below; periodically review written~~
41 ~~bylaws; review initial policies and procedures along with any amendments~~
42 ~~thereto; and oversee the management and fiscal affairs of the agency.~~

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- 1 (A) A home care agency shall have an organized governing body, or, if a subdivision
2 of a public or private agency or a multifunction organization, a clearly defined
3 local body having legal responsibility for the conduct of the home health agency.
- 4 (1) The body shall consist of at least three members who **collectively** have
5 business and healthcare experience sufficient to oversee the services
6 provided by the home care agency. [HCAC77]
- 7 (2) At least one member shall be a Colorado resident [HCAC78] ~~and one~~
8 ~~member shall be neither an owner, employee, nor contractor for~~
9 ~~consumer care services.~~
- 10 (3) The professional advisory committee or a subset thereof may function as
11 the governing body [HCAC79].
- 12 (B) The governing body shall have a process for review of agency operations at least
13 quarterly [HCAC80] and meet at least annually.
- 14 (C) The governing body shall assume responsibility for:
- 15 (1) Compliance with all federal regulations, state rules, and local laws;
- 16 (2) Quality patient care;
- 17 (3) Policies and procedures which describe and direct functions or services
18 of the home care agency and protect patient rights;
- 19 (4) Bylaws which shall include at least:
- 20 (a) A statement of purpose;
- 21 (b) A statement of qualifications for membership and methods to
22 select members of the governing board;
- 23 (c) A provision for the establishment, selection, and term of office for
24 committee members and officers;
- 25 (d) A description of functions and duties of the governing body,
26 officers, and committees;
- 27 (e) A statement of the authority and responsibility delegated to the
28 administrator;
- 29 (f) Meet as stated in bylaws, at least annually;
- 30 (g) Appoint by name and in writing a qualified administrator who is
31 responsible for the agency's overall functions.
- 32 (5) Review of the written agency evaluation report and other
33 communications from the administrator or group of professional
34 personnel and provide written [HCAC81] directives and comments.
35 Documentation of these reviews shall be signed, dated and available to
36 the Department upon request.

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- 1 (6) Adequate provision for resources and equipment to provide a safe and
2 effective working environment for personnel and ensure patient safety
3 and welfare.
- 4 (7) Establish and ensure the maintenance of a system of financial
5 management and accountability.
- 6 (8) Appropriate structure for information management systems including
7 capturing, storing, retrieving, processing, and analyzing data and
8 information. Such procedures shall be included in agency policy and
9 procedure.
- 10 (9) Maintain an organizational chart, with a written description of the
11 organization, authorities, and responsibilities.[HCAC82]

12 Professional Advisory Committee

13 (A) Each HCA shall have a group of professional personnel that includes at least one
14 physician and one registered nurse, ~~a representative from each professional~~
15 ~~discipline the HCA includes in its policy, and/or information provided to~~
16 ~~consumers or the Department as services provided to consumers.~~
17 [HCAC83]The group of professional personnel shall establish and annually review
18 the agency's policies governing the all services offered, admission and discharge
19 policies, medical supervision and plans of care, emergency care, clinical records,
20 personnel qualifications, and program evaluation. At least one member of the
21 group shall be neither an owner, an employee nor a contractor for the provision
22 of consumer care services for the HCA.

23 (B) **The agency shall implement an on-going mechanism for consumer**
24 **involvement to provide input and comment regarding services provided by**
25 **the agency in accordance with agency policy. The policy shall include a**
26 **provision that the consumer has the right to submit comments**
27 **anonymously and without fear of reprisal. The agency shall inform the**
28 **consumer of the mechanism to provide input and comments to the agency,**
29 **and how this mechanism differs from filing a complaint with the agency,**
30 **including the expectations for follow-up and agency response to consumer**
31 **input. Consumer input and commentary shall be provided to the group of**
32 **professional personnel at least annually in the original form and format**
33 **received by agency and in an aggregate form to identify negative trends or**
34 **issues requiring consideration of the group.** [HCAC84]

35 (C) The group of professional personnel shall meet annually and as frequently as
36 necessary to advise the agency on professional issues, to participate in the
37 evaluation of the agency's program, and to assist the agency in maintaining
38 liaison with other health care providers in the community and in the agency's
39 community information program. **The HCA shall have a policy and procedure**
40 **to establish criteria for calling a meeting of the group of professional**
41 **personnel more frequently than annually, ~~and such policy shall be based~~**
42 **~~on, at minimum, increase in number of consumer complaints, severity of~~**
43 **~~consumer complaints, trends or issues identified from consumer input,~~**
44 **~~addition or deletion of service categories or disciplines, coordination~~**
45 **~~issues, events related to consumer harm or potential for harm, issues~~**
46 **~~identified in the quality assurance process requiring correction~~**[HCAC85].
47 The policy shall be developed to ensure professional advice is requested and
48 received ~~to facilitate at an appropriate frequency to protect and preserve~~
49 ~~[HCAC86]~~the health, safety, and welfare of the consumers it serves. Each meeting

1 shall be documented by dated minutes and signatures of attendees. Meeting
2 minutes shall be forwarded to the governing body to review and make
3 recommendations.

4 ~~(D)~~

5 Agency Evaluation

6 ~~(A) — The HCA shall have written policies requiring an overall evaluation of the~~
7 ~~agency's total program at least once a year by the group of professional~~
8 ~~personnel (or a committee of this group), HCA staff, and consumers, or by~~
9 ~~professional people outside the agency working in conjunction with consumers.~~

10 ~~(1) — The evaluation shall consist of an overall policy and administrative~~
11 ~~review and a clinical record review.~~

12 ~~(2) — The evaluation shall assess the extent to which the agency's program is~~
13 ~~appropriate, adequate, effective, and efficient.~~

14 ~~(3) — Mechanisms shall be established in writing for the collection of pertinent~~
15 ~~data to assist in evaluation.~~

16 ~~(4) — Results of the evaluation shall be reported to and acted upon by those~~
17 ~~responsible for the operation of the agency and are maintained~~
18 ~~separately as administrative records.~~

19 ~~(B) — In evaluating each aspect of its total program, the HCA shall have four main~~
20 ~~criteria:~~

21 ~~(1) — Appropriateness — Assurance that the area being evaluated addresses~~
22 ~~existing or potential problems.~~

23 ~~(2) — Adequacy — A determination as to whether the HCA has the capacity to~~
24 ~~overcome or minimize existing or potential problems.~~

25 ~~(3) — Effectiveness — The services offered accomplish the objectives of the~~
26 ~~HCA and anticipated consumer outcomes.~~

27 ~~(4) — Efficiency — Whether there is appropriate expenditure of resources by the~~
28 ~~HCA to achieve desired goals and anticipated consumer outcomes.~~

29 ~~(C) — At least quarterly, appropriate health professionals, representing at least the~~
30 ~~scope of the program, shall review a sample of both active and closed clinical~~
31 ~~records to determine whether established policies are followed in furnishing~~
32 ~~services directly or under arrangement and to determine the adequacy of the~~
33 ~~plan of care and services provided.~~

34 (A) The agency's governing body or its designee shall, at least annually, cause
35 **conduct** a comprehensive evaluation of the agency's total operation to be
36 **conducted at least annually.**

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

1 (C) The evaluation shall consist of an overall policy and administration review,
2 including the scope of services offered, arrangements for services with other
3 agencies or individuals, admission and discharge policies, supervision and plan
4 of care, emergency care, service records, personnel qualifications and program
5 evaluation. ~~Data to be assessed shall include at a minimum the following~~ **At a**
6 **minimum, the following data shall be reviewed:**

- 7 (1) Number of clients receiving each service;
- 8 (2) Number of visits or hours for each service;
- 9 (3) Client outcomes;
- 10 (4) Adequacy of staff to meet client needs;
- 11 (5) Numbers and reasons for non-acceptance of clients; and
- 12 (6) Reasons for discharge;
- 13 (7) Complaints received;
- 14 (8) Occurrences;
- 15 (9) Consumer input and comments;
- 16 (10) Quality assurance data, actions, and outcomes

17 [HCAC87](D) ~~In evaluating each aspect of its total program, the HCA should have~~
18 ~~considered four main criteria:~~

- 19 ~~(1) — Appropriateness — Assurance that the area being evaluated addresses existing~~
20 ~~and/or potential problems.~~
- 21 ~~(2) — Adequacy — A determination as to whether the HCA has the capacity to overcome~~
22 ~~or minimize existing or potential problems.~~
- 23 ~~(3) — Effectiveness — The **service(s)** offered accomplishes the **objective(s)** of the HHA~~
24 ~~and anticipated consumer **outcome(s)**.~~
- 25 ~~(4) — Efficiency — Whether there is a minimal expenditure of resources by the HHA to~~
26 ~~achieve desired goals and anticipated consumer outcomes.~~

27 [HCAC88] (E) Documentation of the annual evaluation shall include the names and
28 ~~titles qualifications~~[HCAC89] of the persons carrying out the evaluation, the criteria
29 and methods used to accomplish it, and any action taken by the agency as a
30 result of its findings.

31 (F) An evaluation of the agency's client records shall be carried out at least quarterly
32 by appropriate professionals representing the scope of the agency's program.
33 The evaluation shall include a review of sample active and closed client records
34 to ensure that agency policies are followed in providing services, both direct and
35 under arrangement, ~~and to assure that the quality of service is satisfactory and~~
36 ~~appropriate.~~ [HCAC90] The review shall consist of a representative sample of all
37 home care services provided by the agency.

1 Administrator

2 (A) ~~The administrator, who may also be the supervising health professional required~~
3 ~~under [the appropriate section of this Chapter], shall organize and direct the~~
4 ~~agency's ongoing functions; maintain ongoing liaison among the governing body,~~
5 ~~the group of professional personnel, and the staff; employ qualified personnel~~
6 ~~and ensure adequate staff education and evaluations; ensure the accuracy of~~
7 ~~public information materials and activities; and implement an effective budgeting~~
8 ~~and accounting system. A qualified person shall be authorized in writing to act in~~
9 ~~the absence of the administrator. The administrator shall be an~~
10 ~~employee[HCAC91], or contracted staff, of the agency or related institution who~~
11 ~~assumes over-all day-to-day authority for the operation of the agency including~~
12 ~~but not limited to:~~

- 13 (1) Organizing and directing the agency's ongoing functions;
- 14 (2) Maintaining an ongoing liaison between the governing body and the
15 personnel;
- 16 (3) Employing qualified personnel and ensure appropriate ongoing
17 education and supervision of personnel and volunteers;
- 18 (4) Ensuring the accuracy of public information materials and activities;
- 19 (5) Implementing a budgeting and maintaining agency [HCAC92] accounting
20 system; and
- 21 (6) ~~Ensuring the presence of an~~ **Designating a qualified** alternate
22 administrator to act in the administrator's absence.

23 (B) The administrator shall:

- 24 (1) Be at least 21 years of age;
- 25 (2) Be a licensed physician, registered nurse or other licensed healthcare
26 professional; or have experience and education in health service
27 administration;
- 28 (3) Be qualified by education, knowledge and experience to oversee the
29 services provided;
- 30 (4) Have at least two years healthcare experience OR health services
31 administration experience [HCAC93] with at least one year of supervisory
32 experience in home care or a closely related health program; and
- 33 ~~(5) Have completed the training or competency requirements of the~~
34 ~~administrator.[HCAC94]~~
- 35 ~~(C) Any person employed, or assigned by contract[HCAC95], as an~~
36 ~~administrator, shall meet the minimum training requirements in one of the~~
37 ~~following ways:~~
 - 38 (1) Successful completion of a training program and proctored exam
39 approved by the Department pursuant to this section within 90 days of
40 employment or license application; or

1 (2) The completion of a ~~proctored~~ competency ~~evaluation- exam~~ approved
2 by the department within 45 days of employment or license application.
3 If the administrator failed the exam, the administrator shall complete the
4 full training program within 45 days of taking the competency exam.

5 (NEW) Approval by the Department, at the time of licensure application or notice
6 of change in management staff, based on presentation of application or
7 notice of documented and confirmed previous job related experience and
8 education equivalent to successful completion of such a program.
9 [HCAC96]

10 (3) After June 1, 2009, each agency applying for initial licensure shall ensure
11 that the administrator successfully completed the training program or
12 competency exam before the license is issued.

13 (a) The administrator shall be exempt from this requirement if the
14 agency provides the Department with written documentation that
15 the administrator successfully completed the training or
16 competency evaluation as required in this section within the
17 previous five (5) years.

18 (b) Documented and confirmed previous job related experience
19 equivalent to successful completion of such a program. [HCAC97]

20 _____
21 (4) ~~If review of prior deficient practice, while in a supervisory capacity at the~~
22 ~~current or past employer, showed a history of management, supervision~~
23 ~~or care issues, the Department may require the training course be~~
24 ~~repeated or deny the use of the selected applicant in the role of~~
25 ~~administrator.[HCAC98]~~

26 (5) ~~If deficiencies are cited during a re-licensure or complaint investigation in~~
27 ~~the areas of administration, management, personnel, or provision of~~
28 ~~care, the Department may require the administrator to repeat the~~
29 ~~administrator training and competency exam.[HCAC99]~~

30 (D) Neither the competency exam or training program can act as a substitute for the
31 minimum education and experience requirements.

32 (E) The administrator shall be ~~familiar with all~~ aware of applicable local, state, and
33 federal laws and regulations concerning the operation of ~~the provision of~~ home
34 care services provided by the agency. [HCAC100]

35 Curriculum for Administrator Training

36 (A) The Department shall approve a program of ~~certification- competency~~ if all of the
37 following requirements are met:

38 (1) The program or program components are conducted by:

39 (a) An accredited college, university, or vocational school, or

40 (b) An organization, association, corporation, group, or agency with
41 specific expertise in that area; and

1 (c) The curriculum consists of at least 24 [HCAC101] 16 clock hours of
2 training.

3 (2) Instruction shall include, at minimum, the following topics:

4 - Home care overview

5 - Regulatory responsibilities and compliance including but not limited to:
6 consumer rights, governing body and administrator responsibilities,
7 professional advisory committee, quality management plans, occurrence
8 reporting, and complaint investigation and resolution process.

9 - Personnel – qualifications, experience, competency and evaluations

10 - Financial management

11 - Ethics in healthcare

12 - Needs of the fragile, ill and physically and cognitively disabled
13 [HCAC102] in the community setting ~~regarding~~ S special training and
14 staffing considerations.

15 ~~– Dealing with difficult people/customer service [HCAC103]~~

16 - Staffing methodologies and oversight of scheduling

17 - Staff training and supervision

18 ~~– Limitations of personal care versus health care services [HCAC104]~~

19 Administrator Responsibilities

20 The administrator shall have the following responsibilities: [HCAC105]

21 1) Ensure that the agency is in compliance with all applicable federal, state
22 and local laws,

23 2) ~~Be familiar with the applicable rules of the Department and maintain~~
24 ~~them within the agency, [HCAC106]~~

25 3) Ensure all employees are familiar [HCAC107] ~~Familiarize all employees~~ with
26 ~~the applicable federal, state and local laws~~ and ~~the~~ rules of the
27 ~~Department~~ and make ~~copies~~ available ~~for their use~~,

28 4) Ensure the completion, maintenance and submission of such reports and
29 records as required by ~~the Department~~ licensure, [HCAC108]

30 5) Maintain ongoing liaison with the governing body, staff members and the
31 community, *

32 6) Ensure maintenance [HCAC109] ~~Maintain~~ a current organizational chart to
33 show lines of authority ~~down~~ to the consumer level,

34 7) Provide for the management of the business affairs and the overall
35 operation of the agency, *

- 1 8) ~~Ensure maintenance of~~ ~~Maintain appropriate~~ [HCAC110] personnel
2 ~~records~~, financial and administrative records and ~~all~~ policies and
3 procedures of the agency,
- 4 9) Employ qualified personnel in accordance with written job descriptions.*
5 10) Provide orientation of new staff, regularly scheduled in-service education
6 programs and opportunities for continuing education for the staff,*
- 7 11) Designate in writing the qualified staff member to act in the absence of
8 the administrator, and *
- 9 12) Ensure the availability of the administrator or designee at all hours
10 employees are providing services, at minimum any eight-hour period
11 between 7 a.m. and 7 p.m. Monday through Friday. *

12 Nursing or Healthcare Supervisor

- 13 (A) ~~(A)~~—The skilled nursing services furnished shall be under the supervision and
14 direction of a physician or registered **nurse (who has at least two years of nursing**
15 **experience including one year in home care or a closely related services).**
16 Other healthcare services shall be under the supervision and direction of a physician,
17 registered nurse, or other licensed healthcare professional **(who has at least two**
18 **years healthcare experience in their professional field of supervision practice**
19 **including one year experience in home care or a closely related service).**
- 20 (B) Supervisory availability per SOM 484.14 d. This person, or similarly qualified
21 alternate, shall be available at all times during operating hours and participate in all
22 activities relevant to the professional services furnished, including the development of
23 qualifications and the assignment of personnel.[HCAC111]
- 24 (B) The HCA shall have written policies regarding nurse delegation. **The policy**
25 **shall delineate what tasks or procedures may not**[HCAC112] **be delegated, the**
26 **delegation process, documentation, and how the delegate shall be**
27 **supervised in accordance with state regulation. If the HCA prohibits all**
28 **delegation, there shall be a policy that directs such prohibition.**

29 Personnel

- 30 (A) Records[HCAC113]
- 31 (1) Personnel practices and consumer care shall be supported by
32 appropriate, written personnel policies. [HCAC114]Personnel records
33 include qualifications and licensure that are kept current.
 - 34 (a) **Qualifications include confirmation of type and depth of**
35 **experience, advanced skills, training, and education; and**
36 **appropriate, detailed and observed competency evaluation**
37 **and written testing overseen by a person with the same or**
38 **higher Validated qualifications.**
 - 39 (b) **The HCA shall verify with the Department of Regulatory**
40 **Agencies that all licenses and certifications are valid and**
41 **current.**

1 (B) Training

2 (1) Ongoing training shall be provided to ~~all~~^[HCAC115] CNA direct care staff.
3 Training shall consist of at least 12 contact units ~~hours~~^[HCAC116] every 12
4 months after the starting date of employment or calendar year as
5 designated by agency policy. The training requirement shall be prorated
6 in accordance with the number of months the employee was actively
7 working for the agency. ~~Training shall include, but is not limited to, the~~
8 ~~following items:~~^[HCAC117]

9 ~~(a) Promoting consumer dignity, independence, self-determination, privacy,~~
10 ~~choice and rights; including abuse and neglect prevention and reporting~~
11 ~~requirements.~~

12 ~~(b) Dealing with difficult people including behavioral management~~
13 ~~techniques for cognitively disabled individuals.~~

14 ~~(c) Disaster and Emergency procedures.~~

15 ~~(d) Hygiene and infection control including universal precautions.~~

16 ~~(e) Nutrition and hydration.~~

17 ~~(f) Areas of bathing, skin care, hair care, nail care, shaving, dressing,~~
18 ~~feeding, assistance with ambulation, exercises and transfers, positioning,~~
19 ~~bladder care, bowel care, medication reminding, homemaking, and~~
20 ~~protective oversight.~~

21 ~~(g) Basic first aid.~~

22 ~~(h) Basic home safety.~~

23 (2) All training shall be documented^{[HCAC118][HCAC119]}. Classroom type
24 trainings shall be documented with the date of the training; starting and
25 ending times; instructors and their qualifications; short description of
26 content; and staff member's signature. On-line or self-study trainings
27 shall be documented with information as to the content of the training;
28 and the entity that offered or produced the training. ^[HCAC120] ~~All training~~
29 ~~documentation shall include a copy of any quiz or other comprehension~~
30 ~~tool to show the employee understood and properly applied the training~~
31 ~~presented.~~ ^[HCAC121]

32 (C) Qualifications

33 (1) Each employee or contracted staff shall possess the education and
34 experience to ~~autonomously~~^{[HCAC122][HCAC123]} provide services in the
35 homes of consumers in accordance with state practice acts, ~~and~~
36 professional standards of practice and agency policy.

37 (2) Licensed, registered or certified healthcare providers shall, at a
38 minimum, meet the following requirements:

39 (a) Be qualified as a Physician, Pharmacist, Physician Assistant,
40 Nurse Practitioner, Clinical Social Worker, Physical Therapist,
41 Occupational Therapist, Respiratory Therapist, Registered

1 Nurse, Licensed Practical Nurse, Massage Therapist, Certified
2 Nurse Aide or other provider licensed, registered or certified by
3 the Department of Regulatory Affairs.

4 (b) Meet the requirements for license, certification or registration set
5 forth by the Department of Regulatory Affairs.

6 (c) Obtain and maintain licensure, certification, or registration per
7 regulatory requirements.

8 ~~A speech-language pathologist shall, at a minimum:~~[HCAC124]

9 ~~(1) possess a current Certificate of Clinical Competence in speech~~
10 ~~pathology or audiology granted by the American Speech-Language-~~
11 ~~Hearing Association, [HCAC125]and~~

12 ~~(2) Meet the educational requirements for certification and be in the process~~
13 ~~of accumulating the supervised experience required for certification.~~
14 ~~[HCAC126]~~

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

17 A physical therapy assistant shall, at a minimum:

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

20 (2) Have at least one year of directly supervised physical therapy assistant
21 experience.

22 A social work assistant shall, at a minimum:

23 (1) Have a baccalaureate degree in social work, psychology, sociology, or
24 other field related to social work, and

25 (2) Have had at least one year of supervised social work experience in a
26 health care setting.

27 An independent living skills trainer shall, at a minimum be either per CHCPF or:

28 ~~(1) Be a health care professional with one year of experience in providing~~
29 ~~functionally based assessment and skills training of individuals with~~
30 ~~disabilities; or~~

31 ~~(2) Be an individual with a bachelor's degree and two years of similar~~
32 ~~experiences; or~~

33 ~~(3) Be an individual with an AA degree in social service or human relations~~
34 ~~area with three years of experience; or~~ [HCAC127]

35 (4) Hold certification as a Certified Brain Injury Specialist by the American
36 Academy for the Certification of Brain Injury Specialists.

37 An X-ray technician shall, at a minimum:

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

5 (2) Have earned a bachelor's or associate degree in radiologic technology
6 from an accredited college or university.

7 A phlebotomist shall, at a minimum, have successfully completed an approved
8 phlebotomy training course or equivalent experience through previous employment and
9 have two years of verifiable phlebotomy experience.

10 Admissions

11 (A) Agencies shall only accept consumers for care and/or services on the basis of a
12 reasonable assurance that the consumer's needs can be met adequately by the
13 agency in the individual's place of residence or at an alternate site deemed
14 appropriate by both consumer and health care professional.^[HCAC128]

15 (1) **The agency shall document, at the initial visit and at least every**
16 **quarter^[HCAC129], service or care needs that are required on a**
17 **specific day or time and those days and times that are preferred by**
18 **the consumer.**

19 (2) ~~Frequency of intermittent visits for each discipline ordered shall~~
20 ~~include a general schedule of days of the week and portion of the~~
21 ~~day (morning, mid-day, evening, night) mutually agreeable to meet~~
22 ~~the care and service needs of the consumer. Long-hour services or~~
23 ~~care (more than four-hour visits) shall include days of the week and~~
24 ~~portion of the day the services are scheduled to begin and number~~
25 ~~of hours required each visit.~~ ^[HCAC130]

26 (3) **There shall be documentation of the agreed upon days and times of**
27 **services to be provided. Alterations in the agreed schedule shall be**
28 **addressed in accordance with section 6.14 of this Chapter.**

29 (B) If an agency receives a referral on a consumer who requires care and/or services
30 that are not available at the time of referral, the agency shall advise the
31 consumer's primary care provider and the consumer to let them know the
32 situation. The agency shall only admit the consumer if the primary care provider
33 and the consumer or consumer's representative agree the ordered services can
34 be delayed or discontinued. A specific signed medical order from the primary
35 care provider or signed refusal of service shall be retained in the consumer's
36 record. If at the time of referral, the primary care provider and/or the consumer
37 decide the requested services are required, the agency shall contact the referral
38 source to decline admission of the consumer.

39 Discharge Planning

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

42 (B) If no improvement or no discharge is expected, the agency shall document in the
43 clinical record this assessment and the reason why.

1 Administration

2 (A) The HCA, under the direction of the governing body, shall prepare an overall plan
3 and a budget that includes an annual operating budget and capital expenditure
4 plan (as applicable). The overall plan and budget shall be prepared by a
5 committee consisting of representatives of the governing body, the administrative
6 staff, and the medical staff (if any) of the HCA. The overall plan and budget shall
7 be reviewed and updated at least annually by the committee referred to herein
8 under the direction of the HCA governing body.

9 (B) The HCA shall document either liability insurance coverage or a surety bond in
10 lieu of liability insurance coverage in the amount of **at least one million dollars**
11 **(\$1,000,000) per occurrence, three million dollars (\$3,000,000)**
12 **aggregate**[HCAC131]. Such coverage shall be maintained for the duration of the
13 license period.

14 (C) Any HCA that performs procedures ~~in the consumer's residence [HCAC132]~~ that
15 are considered waived clinical laboratory procedures under the Clinical
16 Laboratory Improvement Act of 1988, shall possess a certificate of waiver from
17 **the Centers for Medicare and Medicaid** or its designated agency.

18 (D) The HCA shall have written policies ~~regarding delineating responsibility for~~
19 ~~[HCAC133]~~ maintenance of consumer's durable medical equipment, and shall make
20 full disclosure of these policies to all consumers with durable medical equipment
21 in the home. The policies shall provide such disclosure to the consumer at the
22 time of admission.

23 (E) Availability

24 (1) The agency shall have a registered nurse or therapist (if nursing is not
25 the predominant service) available after hours. A licensed practical
26 nurse, physical therapy assistant, or certified nurse aide may take initial
27 call and perform services as ordered on the plan of care. If the contact
28 suggests a substantial change in condition, the registered nurse or
29 therapist shall conduct an assessment and intervene on behalf of the
30 consumer. ~~Any services outside the plan of care shall be approved by a~~
31 ~~registered nurse or therapist and a verbal order shall be obtained from~~
32 ~~the physician~~[HCAC134] ~~prior to the services being rendered.~~ [HCAC135]

33 (2) ~~The agency shall have a policy describing at least the following:~~

34 ~~(a) How patients will contact the agency after hours; and~~

35 ~~(b) How the agency will ensure the health professional on call has access to~~
36 ~~all current patient information.~~

37 [HCAC136]Business Practices[HCAC137]

38 The HCA shall follow appropriate business practices in its care, treatment, and services.

39 (A) A **designated employee or contractor** shall ensure business practices are
40 implemented and effective to guard against fraud and abuse and ensure
41 accurate accounting and billing practices.

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- 1 (B) The HCA shall manage revenues and expenses on an ongoing basis, ~~including~~
2 ~~the reconciliation of charges to consumers for equipment, supplies, and services~~
3 ~~with invoices, receipts, and deposits and~~ **including** tracking actual revenues and
4 expenses.
- 5 (C) The effectiveness and safety of care, treatment and services shall not depend on
6 the payer source.
- 7 (D) **All marketing, advertising and promotional information** shall accurately
8 represent the HCA and address the care, treatment, and services that the HCA
9 can provide directly or through contractual arrangement.[HCAC138]
- 10 (E) The HCA shall provide accurate and truthful information to the Department during
11 inspections, investigations and license processing activities. Falsification
12 includes fabrication, in whole or in part, the knowing delivery of inaccurate
13 information orally or in writing, and the failure to provide information requested
14 and known to the agency[HCAC139].

15 Care and Services

- 16 (1) An initial assessment shall be completed in the consumer's residence by an
17 employee of the agency ~~who has completed orientation/training in the initial~~
18 ~~assessment procedures of the agency and has demonstrated competency in the~~
19 ~~performance of these skills.~~ The initial assessment shall be completed by a
20 registered nurse or licensed therapist, as ~~appropriate~~ allowed in rules.
- 21 (2) At the time of the admission, the plan of care shall be developed in conjunction
22 with the consumer and/or family and the appropriate health care professional.
- 23 (3) The plan of care shall include potential services to be rendered; the frequency of
24 visits and/or hours of service, assignment of health care providers and the
25 estimated length of services. The plan of care shall be revised at least every 60
26 days. The plan of care shall be individualized according to each of the individual
27 consumer's needs.
- 28 (4) The plan of care and each verbal order obtained shall be signed by the physician
29 or licensed practitioner within **30 days** of the receipt of the order.
- 30 (5) Case conferences shall be held at least every 60 days on each consumer and **at**
31 **least every 30 days for cases where there is more than one agency sharing**
32 **the provision of the same home health services.** [HCAC140]The minutes of
33 these case conferences shall reflect discussion and input by all the disciplines
34 providing care to the consumer.

35 Extended Care[HCAC141]

36 Extended Care is defined as six or more hours of home health services provided in a 24-hour
37 period, by a licensed agency that provides skilled health services[HCAC142]. In addition to meeting
38 the applicable standards for a Class A or B license, all agencies providing extended care **shall**
39 meet the following:

- 40 (A) The agency shall be responsible for assuring that each consumer, or legal
41 representative, is aware of the steps to take in an emergency or unusual
42 situation. The agency **shall** have a contingency plan regarding how the case is
43 managed if a scheduled employee is unable to staff the case; [HCAC143]

- 1 (B) The consumer's permanent medical record shall be available at the licensed
2 agency location; [HCAC144]
- 3 (C) A medical record **shall** also be maintained in the home if a consumer is receiving
4 skilled extended care. [HCAC145]
- 5 ~~(1) The record shall contain:~~
- 6 ~~(a) Current plan of treatment (physician's or licensed practitioner orders);~~
- 7 ~~(b) Medication profile;~~
- 8 ~~(c) Clinical notes, containing consumer status or service documentation at~~
9 ~~least every 2 hours except where the consumer's clinical status or care~~
10 ~~requires an increased frequency of assessment, observation, or~~
11 ~~services.~~
- 12 ~~(d) Documentation of any medication administered by agency staff including~~
13 ~~the date, time, dosage and the manner of administration;~~
- 14 ~~(e) Any other information deemed necessary by the licensed agency.~~
- 15 ~~(2) The information included in the home record **shall** be filed in the~~
16 ~~permanent medical record in accordance with agency policy. [HCAC146]~~
- 17 (3) If extended care certified nurse aide service is the only service being
18 provided, a home record is not required. Written instructions shall be
19 maintained in the home and in the permanent record;
- 20 ~~(D) The agency shall have an orientation plan for the staff providing the care to the~~
21 ~~consumers. Since extended care cases may involve highly technical services,~~
22 ~~this plan shall reflect how the agency ensures that the individuals providing the~~
23 ~~extended care are qualified to provide these types of services. [HCAC147]~~
- 24 (E) ~~Contracting for Extended Care Services~~
- 25 ~~A licensed home health agency may contract with another entity to provide extended care~~
26 ~~in the licensed agency's service area provided that administration, care and~~
27 ~~supervision down to the consumer care level is ultimately the responsibility of the~~
28 ~~licensed agency. The contract shall be in conformance to [contract section]. The~~
29 ~~contracted staff shall have completed the agency orientation and competency~~
30 ~~appraisal for provisions of care and services for the extended care consumer.~~
31 ~~Staff credentialing, orientation, and competency appraisal documentation shall~~
32 ~~be kept at the primary agency.~~
- 33 [HCAC148] (F) ~~Conditional Emergency Home Health Service outside Geographic Area~~
34 ~~[HCAC149]~~
- 35 ~~(1) The Department shall approve the provision of extended care to one or~~
36 ~~more consumers by any licensed skilled home health agency outside~~
37 ~~their geographic area where such provider:~~
- 38 ~~(a) Certifies that the consumer requires conditional emergency~~
39 ~~services which shall be defined as: a medically indicated skilled~~
40 ~~extended care case in which the consumer requires specialized~~

~~care of a registered nurse or a licensed practical nurse under the supervision of a registered nurse, not available through licensed skilled home health agencies in the area.~~

~~(b) — Furnishes information on forms prescribed by the Department regarding the consumers who require conditional emergency services that include but is not limited to:~~

~~(i) — Name of consumer;~~

~~(ii) — Address of the consumer;~~

~~(iii) — Diagnosis;~~

~~(iv) — The type of specialized skilled extended care the consumer requires and why the consumer does not have access to local skilled home health services;~~

~~(c) — Furnishes information to the Department ensuring that all agencies whose skilled home care licensed area encompasses the location of the consumer were contacted to determine if the required services could be provided. Such information should include the name of the agency contacted, the name of the person contacted, the date and time of the contact, and the reason given for not being able to provide the care. If the agency contacted does not respond with an answer within 24 hours of the initial contact, the agency seeking to provide the services may proceed as required. The lack of response should be noted in the information furnished to the Department.~~

~~(2) — Following initial approval, if local services become available, the choice of transfer shall be the consumer/caregiver's decision.~~

~~(3) — An agency operating outside their licensed geographic area to provide approved extended care may provide all services required by the consumer until such time the skilled extended care is discontinued or the consumer is transferred to an agency licensed to provide skilled home health services in the area.~~

[HCAC150](G) Prior to withdrawing skilled nursing or certified nurse aide services for an extended care consumer the home health agency shall:

(1) Show continuing and documented effort to resolve conflicts unless the safety of staff is placed at risk;

(2) Provide evidence that ongoing efforts were made to recruit staff or place with another agency; and [HCAC151]

(3) Give the consumer/family 30 days notice[HCAC152], in writing, of the intent to discharge the consumer unless staff safety is at risk.

Medication Management

(1) For consumers receiving medication administration services or extended care nursing services, a current medication administration record shall be maintained

1 and incorporated into the clinical record. ~~Notation shall be on the administration~~
2 ~~record of medications given; medications not given and reason; medications~~
3 ~~given according to a sliding scale including the measurement and dose given;~~
4 ~~and medications given PRN or as needed and the indication for the PRN~~
5 ~~medication administration. The nurse or therapist administering medication shall~~
6 ~~monitor for effectiveness, interactions, and adverse effects.~~[HCAC153]

7 (2) Agencies shall have a written policy stating how controlled drugs will be
8 monitored if agency staff transports the drugs from the pharmacy to the
9 consumer.

10 (3) If controlled drugs are being administered by the agency, there shall be a policy
11 regarding how the drugs will be administered and monitored.

12 (4) 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 discussed and~~
16 ~~approved by the consumer.~~[HCAC154]

17 Acceptance of Consumers, Plan of Care and Medical Supervision

18 (A) Home care consumers shall be accepted for services on the basis of a
19 reasonable expectation that the consumer's medical, nursing, therapy, and social
20 needs can be met adequately by the agency in the consumer's place of
21 residence. Care shall follow a written plan of care established and periodically
22 reviewed by a doctor of medicine, osteopathy, podiatric medicine, **or attending**
23 **intermediate care provider.**

24 (B) The plan of care shall be developed in consultation with the agency ~~staff and~~
25 ~~known external home care service providers~~[HCAC155]. The plan shall cover all
26 pertinent diagnoses and goals of service, including mental status, types of
27 services and equipment required, frequency of visits, prognosis, rehabilitation
28 potential, functional limitations, activities permitted, nutritional requirements,
29 medications and treatments, any safety measures to protect against injury,
30 instructions for timely discharge or referral, and any other appropriate items.

31 (C) ~~If a physician or intermediate care provider refers a consumer under a plan of~~
32 ~~care that cannot be completed until after an evaluation visit, the attending~~
33 ~~physician or attending intermediate care provider shall be consulted to approve~~
34 ~~additions or modifications to the original plan.~~[HCAC156] Orders for therapy
35 services shall include the specific procedures and modalities to be used and the
36 amount, frequency, and duration. The therapist, other agency personnel, ~~and~~
37 ~~external home care providers (where applicable)~~[HCAC157] shall participate in
38 developing the plan of care.

39 (D) The total plan of care shall be reviewed by the attending physician or attending
40 intermediate care provider and HCA personnel as often as the severity of the
41 consumer's condition requires, but at least once every 60 days. ~~or more~~
42 ~~frequently when there is a beneficiary elected transfer; a significant change in~~
43 ~~condition resulting in a change in the case mix assignment; or a discharge and~~
44 ~~return to the same HCA during the 60-day episode.~~[HCAC158]

45 (E) Agency professional staff shall promptly alert the physician or attending
46 intermediate care provider to any changes that suggest a need to alter the plan

of care. ~~This~~ **All communication, including all attempts,** shall be documented in the clinical record^[HCAC159]. ~~with date, time, name of physician or physician representative contacted, name/discipline of staff person making the contact and outcome of communication. If person-to-person contact was not completed or if awaiting return response, all contacts and interactions shall be documented as prescribed in this section.~~ The agency shall have a written policy regarding how the agency will intervene if the attending care provider cannot be contacted or respond timely.

(F) Drugs and treatments shall be administered by agency staff only as ordered by the physician or intermediate care provider with the exception of influenza and pneumococcal polysaccharide vaccines, which may be administered per agency policy developed in consultation with a physician, and after an assessment for contraindications.

(G) Verbal orders shall be put in writing and signed ~~per agency policy with the date and time of receipt~~ by the registered nurse or qualified **healthcare professional** responsible for furnishing or supervising the ordered services^[HCAC160]. ~~The order shall contain sufficient information to carry out the order, name of the physician, intermediate care provider, and if appropriate, representative conferring the order to the HCA. Verbal orders shall be accepted only by personnel authorized to do so by applicable state and federal laws and regulations as well as by the HCA's internal policies.~~

(H) ~~An HCA shall not discontinue or refuse~~^[HCAC161] ~~services to a consumer unless documented efforts have been made to resolve the situation that triggers such discontinuation or refusal to provide services.~~^[HCAC162]

Coordination

(A) ~~The HCA shall be responsible for the coordination of consumer services both with internal staff and external services providing care and services to the same consumer.~~^[HCAC163] ~~All personnel furnishing services maintain liaison to ensure that their efforts are coordinated effectively and support the objectives outlined in the plan of care and as delineated through outside home care services.~~^[HCAC164]

(B) The clinical record, **care coordination notes** or minutes of case conferences establish that effective interchange, reporting, and coordination of consumer care does occur.

(C) A written summary report for each consumer shall be ~~sent~~ **documented and made available** to the **attending primary care provider** at least every 60 days.

Skilled Nursing Services

(A) The registered nurse shall be responsible for the following:

(1) ~~The initial evaluation visit,~~ ^[HCAC165]

(2) Initial assessment for nursing services and Regularly reevaluating the consumer's nursing needs,

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- 1 (3) Initiating the plan of care and ensuring orders for and initiation of
2 necessary revisions,
- 3 (4) Furnishing those services requiring substantial and specialized nursing
4 skill,
- 5 (5) ~~Initiating appropriate preventive and rehabilitative nursing~~
6 ~~procedures~~[HCAC166],
- 7 (6) Preparing clinical and progress notes, coordinating services, and
8 informing the physician and other personnel of changes in the
9 consumer's condition and needs,
- 10 (7) Counseling [HCAC167]the consumer and family in meeting nursing and
11 related needs, and
- 12 (8) Participating in in-service programs, and supervising and teaches other
13 nursing personnel.
- 14 (B) The licensed practical nurse shall be responsible for the following:
 - 15 (1) Furnishing services in accordance with agency policies,
 - 16 (2) Preparing clinical and progress notes,
 - 17 (3) Assisting the physician, intermediate care provider and registered nurse
18 in performing specialized procedures.
 - 19 (4) ~~Preparing equipment and materials for treatments, observing aseptic~~
20 ~~technique as required, and~~ [HCAC168]
 - 21 (5) Assisting the consumer in learning appropriate self-care techniques.

22 **Medical Social Services**

23 If the agency furnishes medical social services, those services shall be given by a
24 qualified social worker or by a qualified social work assistant under the supervision of a
25 qualified social worker, and in accordance with the plan of care.

26 The social worker shall be responsible for the following:

- 27 (A) Assisting the physician, or intermediate care provider and other team members in
28 understanding the significant social and emotional factors related to the health
29 problems,
- 30 (B) Participating in the development of the plan of care,
- 31 (C) Preparing clinical and progress notes,
- 32 (D) Working with the family,
- 33 (E) Using appropriate community resources,
- 34 (F) Participating in discharge planning and in-service programs, and

1 (G) Acting as a consultant to other agency personnel.

2 Nurse Aide Services

3 (A) The agency shall select ~~certified nurse~~ aides[HCAC169] on the basis of such
4 factors as the ability to read, write, carry out directions, and effectively
5 communicate with the consumer and agency staff; to demonstrate competency in
6 the provision of services and care safely and effectively; and to treat consumers
7 with dignity and respect to person and property. T[HCAC170]hey shall be
8 supervised in accordance with [the section on CNA supervision].

9 (B) The agency shall ensure that each nurse aide it employs is certified by the
10 Colorado Department of Regulatory Agencies within four months of starting
11 employment. ~~Certification shall be attained within one year of completion of an~~
12 ~~approved nurse aide program and shall remain current.~~[HCAC171]

13 ~~(NEW)~~ A ~~complete~~ competency assessment with direct observation shall be completed
14 before ~~assignments which include competency required skills.~~ ~~employment~~ in
15 accordance with [the section on certified nurse aide training and orientation].
16 [HCAC172]

17 ~~(NEW)~~ Each aide providing care and services without benefit of certification shall be
18 supervised in the home by direct observation at least every weekly for the first
19 month of employment and every two weeks thereafter.[HCAC173]

20 ~~(C)~~ ~~For all consumers who need certified nurse aide services, the supervising nurse~~
21 ~~healthcare professional shall, during supervisory visits, accomplish the~~
22 ~~following:~~

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

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

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

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

40 [HCAC174](d)[HCAC175] ~~If HCA provides aides services in addition to~~
41 ~~other skilled services, a supervisory visit shall occur no less~~
42 ~~frequently than every two weeks. The registered nurse shall~~
43 ~~make an on-site supervisory visit to the consumer's home~~
44 ~~no less frequently than every two weeks to supervise the~~

~~certified nurse aide. Supervisory visits to be completed by registered nurse except w~~When other skilled services are being provided by the agency, ~~the~~The certified nurse aide may be supervised by another healthcare professional in accordance with the professional's scope of practice and state and federal law. Direct observation of care being provided by the nurse aide shall occur at least every 60 days. [HCAC176]~~More frequent direct supervision shall occur if there are adverse changes in the consumer's condition, complaints received associated with the provision of care by an aide, supervision requested by the CNA or consumer for specific issues, or other matters concerning the provisions of care by the CNA.~~[HCAC177]

(e) If home health aide services are provided to a consumer who is not receiving in-home care by a health professional, a supervisory visit with the nurse aide present at the consumer's home shall occur no less frequently than every 60 days. ~~More frequent direct supervision shall occur if there are adverse changes in the consumer's condition, complaints received associated with the provision of care by an aide, supervision requested by the CNA or consumer for specific issues, or other matters concerning the provisions of care by the CNA.~~[HCAC178]

(2) Provide each consumer and/or the consumer's designated representative, a new copy of the Consumer Rights form and explain those rights whenever the home health/nurse aide assignment form is renegotiated and rewritten.[HCAC179]

(D) In addition to any other exclusions set forth herein, the agency shall not allow non-relative care providers to:

(1) Become or act as a Power of Attorney, or

(2) Be involved in any financial transactions of the consumer, including check writing or account management, outside of contracted services such as grocery shopping or running general errands. In such cases, the HCA worker shall follow agency policies in regard to securing receipts for items purchased and ensuring both consumer and worker signatures documenting those expenditures.

~~Certified~~[HCAC180]-Nurse Aide ~~Training and~~ Orientation[HCAC181]

(A) The HCA shall ensure that ~~aid~~ aide is competent to use skills ~~learned or tested elsewhere can be transferred successfully to~~ in the care of the consumer ~~in his/her place of residence.~~ [HCAC182]This review of skills ~~could be done when the nurse installs an aide into a new consumer care situation, during a supervisory visit, or as part of the annual performance review, shall be completed prior to~~ consumer assignment of aide where skill is required to complete assignment sheet. A mannequin may not be used for this evaluation.

(B) If the HCA's admission policies and the case-mix of HCA consumers demand that the aide care for individuals whose personal care and basic nursing or therapy needs require more complex training than the minimum required in the

1 regulation, the HCA shall document how these additional skills are taught and
2 validated.[HCAC183]

3 (C) The HCA shall establish a process for ~~standardized, step-by-step observation~~
4 ~~and evaluation of certified~~-nurse aide competency, ~~in the following subject areas~~
5 ~~at the time of initial hire;~~

6 ~~(D) Hands-on tasks may shall be competency tested at anytime prior to the~~
7 ~~assignment of tasks.:[HCAC184]~~

- 8 (1) Communications skills. ~~±~~
- 9 (2) Observation, reporting and documentation of consumer status and the
10 care or service furnished. ~~±~~
- 11 (3) Reading and recording temperature, pulse, and respiration. ~~*~~
- 12 (4) Basic infection control procedures. ~~±~~
- 13 (5) Basic elements of body functioning and changes in body function that
14 shall be reported to an aide's supervisor. ~~*~~
- 15 (6) Maintenance of a clean, safe, and healthy environment. ~~*~~
- 16 (7) Recognizing emergencies and knowledge of emergency procedures. ~~*~~
- 17 (8) The physical, emotional, and developmental needs of and ways to work
18 with the populations served by the HCA, including the need for respect
19 for the consumer, his or her privacy and his or her property. ~~*~~
- 20 (9) Appropriate and safe techniques in personal hygiene and grooming that
21 include: ~~*~~

- 22 (a) Bathing
- 23 ~~(i) Bed/sponge,~~
- 24 ~~(ii) Tub, and~~
- 25 ~~(iii) Shower.~~
- 26 [HCAC185](b) Shampoo[HCAC186]
- 27 ~~(i) Sink,~~
- 28 ~~(ii) Tub, and~~
- 29 ~~(iii) Bed.~~
- 30 (c) Nail and skin care.
- 31 (d) Oral hygiene.
- 32 (e) Toileting and elimination.

1 (10) Safe transfer techniques and ambulation. * _

2 (11) Normal range of motion and positioning. * _

3 (12) Adequate nutrition and fluid intake. ±

4

5 Therapy Services

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

13 Supervision of therapy assistants

14 (A) Services furnished by a qualified physical, occupational, or respiratory therapy
15 assistant may be furnished under the supervision of a qualified physical,
16 occupational or respiratory therapist. A physical therapy assistant or occupational
17 therapy assistant performs services directed from a written plan of care,
18 delegated, and supervised by the therapist, assists in preparing clinical notes and
19 progress reports, and participates in educating the consumer and family, and in
20 in-service programs. Onsite supervision shall occur at least once every 30 days
21 and at least every 60 days with the assistant present.

22 (B) Speech therapy services shall be furnished only by a qualified speech pathologist
23 or audiologist.[HCAC187]

24 Comprehensive Assessment of Consumers

25 Each consumer shall receive, and an HCA shall provide, a consumer-specific,
26 comprehensive assessment that accurately reflects the consumer's current health status
27 and includes information that may be used to demonstrate the consumer's progress
28 toward achievement of desired outcomes. The comprehensive assessment shall identify
29 the consumer's continuing need for home care and meet the consumer's medical,
30 nursing, rehabilitative, social, and discharge planning needs.

31 Initial assessment visit

32 (A) A registered nurse shall conduct an initial assessment ~~visit~~ to determine the
33 immediate care and support needs of the consumer. The initial assessment visit
34 shall be held either within 48 hours of referral, or within 48 hours of the
35 consumer's return home, or on the attending provider ordered start of care date.

36 (B) When an alternate professional healthcare service is the only service ordered,
37 the initial assessment ~~visit~~ may be made by the appropriate skilled healthcare
38 professional.

39 Comprehensive assessment

40 (NEW) The initial assessment shall include a comprehensive assessment.[HCAC188]

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- 1 (A) The comprehensive assessment shall be completed in a timely manner,
2 consistent with the consumer's immediate needs, but no later than five calendar
3 days after the start of care.
- 4 (B) Except as otherwise indicated in this section, a registered nurse shall complete
5 the comprehensive assessment.
- 6 (C) When a healthcare service other than nursing is the only service ordered by the
7 physician, the primary professional healthcare worker may complete the
8 comprehensive assessment.
- 9 (D) The comprehensive assessment shall include a documented review of all
10 medications the consumer is currently using in order to identify any potential
11 adverse effects and drug reactions, including ineffective drug therapy, significant
12 side effects, significant drug interactions, duplicate drug therapy, and
13 noncompliance with drug therapy.
- 14 (E) The comprehensive assessment shall be updated and revised as frequently as
15 the consumer's condition warrants due to a major decline or improvement in the
16 consumer's health status, but not less frequently than:
- 17 (1) A minimum of every 60 days beginning with the start-of-care date; and
- 18 (2) Within 48 hours, or as ordered by physician or alternate[HCAC189], of the
19 consumer's return to the home from a hospital admission_ of 24 hours or
20 more for any reason other than diagnostic tests.

21 **Non-Medical /Personal Care**

22 **Governing Body**

- 23 (A) Each agency shall have a governing body having legal authority and
24 responsibility for the conduct of the agency. At least one member shall be a
25 **Colorado resident** and have knowledge of the agency operations. For purposes
26 of this Section, this would include but not necessarily be limited to LLCs, sole
27 proprietorships, corporations, associations and partnerships.
- 28 (B) For the purposes of this section, the governing body shall:
- 29 (1) Have bylaws or the equivalent, which shall be reviewed and be revised
30 as needed. They shall be made available to all members of the
31 governing body and a signed copy or acknowledgement of receipt and
32 understanding kept on file in the agency.
- 33 (2) The bylaws or the equivalent shall specify the objectives of the agency.
- 34 (3) Designate and employ an agency manager.
- 35 (4) Adopt and review annually and revise as needed, policies and
36 procedures for the operation and administration of the agency.
- 37 (5) Review the operation of the agency at least annually.
- 38 (6) Keep minutes of all meetings.

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1 (7) Provide and maintain a fixed office location, that provides for consumer
2 confidentiality and a safe working environment in compliance with local
3 ordinances and fire regulations.

4 Administration

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

7 (B) The agency shall show evidence of either liability insurance coverage or a surety
8 bond in lieu of liability insurance coverage in the amount of **at least one**
9 **hundred thousand dollars (\$100,000) per occurrence, three hundred**
10 **thousand dollars (\$300,000) aggregate.** [HCAC190] Such coverage shall be
11 maintained for the duration of the license period.

12 (C) ~~The agency shall develop, implement and have written policies in place for~~
13 ~~complaint resolution.~~ [HCAC191]

14 ~~Business Practices~~[HCAC192]

15 The HCA shall follow appropriate business practices in its care, treatment, and services.

16 (A) ~~A designated employee or contractor shall ensure business practices are~~
17 ~~implemented and effective to guard against fraud and abuse and ensure~~
18 ~~accurate accounting and billing practices.~~[HCAC193]

19 (B) The HCA shall manage revenues and expenses on an ongoing basis, including
20 the reconciliation of charges to consumers for equipment, supplies, and services
21 with invoices, receipts, and deposits and including tracking actual revenues and
22 expenses.[HCAC194]

23 (C) ~~The effectiveness and safety of care, treatment and services shall not depend on~~
24 ~~the payer source.~~[HCAC195]

25 (D) ~~All marketing, advertising and promotional information shall accurately~~
26 ~~represent the HCA and address the care, treatment, and services that the HCA~~
27 ~~can provide directly or through contractual arrangement.~~[HCAC196]

28 (E) The HCA shall provide accurate and truthful information to the Department during
29 inspections, investigations and license processing activities. Falsification
30 includes fabrication, in whole or in part, the knowing delivery of inaccurate
31 information orally or in writing, and the failure to provide information requested
32 and known to the agency.

33 [HCAC197]Agency Manager

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

36 (B) The agency manager shall meet the following qualifications:

37 (1) Be at least 21 years of age, ~~possess a high school diploma or GED,~~
38 [HCAC198]at least one year documented supervisory experience in the
39 provision of personal care services.

- 1 (2) Be able to communicate and understand return communication
2 effectively in exchanges between the consumer, family representatives,
3 and other providers.
- 4 (3) Have successfully completed a ~~20 [HCAC199]~~ 16 hour agency manager-
5 training course.
- 6 (a) Any person commencing service as an agency manager after
7 **January 1, 2011**, shall meet the minimum training requirements
8 approved by the Department pursuant to [the appropriate section
9 of this Chapter]; or provide documented and confirmed previous
10 job related experience or related education equivalent to
11 successful completion of such program. The Department may
12 require additional training to ensure that all the required
13 components of the training curriculum are met.
- 14 (b) A copy of documentation verifying completion of required
15 training ~~The Certificate of Completion [HCAC200]~~ shall be retained
16 in the agency manager's personnel file.
- 17 (c) Any person already serving as an agency manager on
18 **December 31, 2010** shall either meet subparagraph (3) above or
19 meet the minimum training requirements in one of the following
20 ways:
- 21 (i) Successful completion of a program approved by the
22 Department, pursuant to Section C, if completed within a
23 period of six (6) months following **January 1, 2011**;
- 24 (ii) Submission of evidence of successful completion of
25 such training within the previous five (5) years before
26 **January 1, 2011**; and
- 27 (iii) Documented and confirmed previous job related
28 experience equivalent to successful completion of such
29 a program.
- 30 (4) Be familiar with all applicable local, state, and federal laws and
31 regulations concerning the operation and provision of home care
32 services.
- 33 (C) Agency Manager Training
- 34 (1) A program of certification shall be approved by the Department if:
- 35 (a) The program or program components are conducted by an
36 accredited college, university or vocational school; or an
37 organization, association, corporation, group, or agency with
38 specific expertise in that area; and the curriculum includes at
39 least ~~twenty (20)~~ sixteen (16) ~~[HCAC201]~~ actual hours of training.
- 40 (b) Instruction includes, at a minimum, discussion of each the
41 following topics:

- 1 - Home care overview **including other agency types providing**
- 2 **services and how to interact and coordinate with each.**

- 3 - Regulatory responsibilities and compliance including but not
- 4 limited to: consumer rights, governing body responsibilities,
- 5 quality management plans, occurrence reporting, and complaint
- 6 investigation and resolution process.

- 7 - Personnel – qualifications, experience, competency and
- 8 evaluations

- 9 - Financial management

- 10 - Ethics in healthcare

- 11 ~~- Needs of the fragile, ill and physically and cognitively disabled~~
- 12 ~~in the community setting.~~[HCAC202]

- 13 - Dealing with difficult people[HCAC203]

- 14 - Staffing methodologies and oversight of scheduling

- 15 - Staff training and supervision

- 16 - Limitations of personal care versus health care services.

17 (D) Agency Manager Responsibilities

18 The agency manager shall have the following responsibilities:

- 19 1) Ensure that the agency is in compliance with all applicable federal, state
- 20 and local laws,

- 21 2) ~~Be familiar with the applicable rules of the Department and maintain~~
- 22 ~~them within the agency.~~[HCAC204]

- 23 3) ~~Familiarize all employees with the law and the rules of the Department~~
- 24 ~~and make copies available for their use.~~Ensure all employees are
- 25 familiar [HCAC205] with applicable federal, state and local laws and rules
- 26 and make these available .

- 27

- 28 4) Ensure the completion, maintenance and submission of such reports and
- 29 records as required by the Department,

- 30 5) Maintain ongoing liaison with the governing body, staff members and the
- 31 community,

- 32 6) ~~Maintain~~Ensure a current organizational chart is maintained to show
- 33 lines of authority ~~down~~ to the consumer level,

- 34 7) Provide for the management of the business affairs and the overall
- 35 operation of the agency,

- 1 8) ~~Maintain~~ Ensure appropriate personnel ~~records~~, financial and
2 administrative records and all policies and procedures of the agency are
3 maintained,
- 4 9) Ensure employment of ~~Employ~~ qualified personnel in accordance with
5 written job descriptions,
- 6 10) ~~Provide~~ Ensure orientation of new staff, regularly scheduled in-service
7 education programs and opportunities for continuing education for the
8 staff,
- 9 [HCAC206]11) Designate in writing the qualified staff member to act in the
10 absence of the manager, and
- 11 12) Ensure the availability of the manager or designee at all hours
12 employees are providing services, at minimum any eight-hour period
13 between 7 a.m. and 7 p.m. Monday through Friday.

14 Staffing and Staff Responsibilities

15 Supervisor

16 (A) The supervisor shall:

17 Be at least 18 years of age,

18 Have appropriate experience in the home care industry or closely related
19 personal care services in accordance with agency policy, and

20 Training in the provision of non-medical home care.

21 Personal Care Worker

22 (A) A personal care worker shall be 18 years old, have completed agency training, or
23 have verified experience in the provision of home care tasks to consumers and
24 passed a competency evaluation.

25 (B) Personal care service employees shall provide services in accordance with the
26 policies and requirements of the agency as well as the service arrangements
27 ~~spelled out in the consumer contract~~ consumer specific assignment sheet.

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

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

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

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

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

- 1 (5) Assistance with activities of daily living and personal care.
- 2 (6) Completion of appropriate encounter/service notes regarding service
3 provision each visit **per agency policy**. **Documentation shall contain**
4 **services provided, date and time in and out and a confirmation that**
5 **care was provided. Such confirmation shall be according to agency**
6 **policy.**[HCAC207]
- 7 (D) In order to delineate the types of services that can be provided by a personal
8 care service worker, the following are examples of limitations where skilled home
9 health care would be needed to meet higher needs of the consumer.
- 10 (1) Skin Care. A personal care worker may perform general skin care
11 assistance. Skin care may be performed by a personal care service
12 worker only when skin is unbroken, and when any chronic skin problems
13 are not active. The skin care provided by a personal care worker shall
14 be preventative rather than therapeutic in nature and, may include the
15 application of non-medicated lotions and solutions, or of lotions and
16 solutions not requiring a physician's prescription. Skilled skin care shall
17 be provided by an agency licensed as a home health or professional
18 home care agency as applicable. Skilled skin care includes wound care,
19 dressing changes, application of prescription medications, skilled
20 observation and reporting.
- 21 (2) Ambulation. A personal care worker may generally assist consumers
22 with ambulation who have the ability to balance and bear weight. If the
23 consumer has been determined by a health professional to be
24 independent with an assistive device, a personal services worker may be
25 assigned to assist with ambulation. Consumers in the process of being
26 trained to use adaptive equipment for ambulation, such as walkers,
27 canes or wheelchairs, require supervision by an agency licensed to
28 provide home health or professional home care agency services during
29 the period of their training[HCAC208].
- 30 (3) Bathing. A personal care worker may assist consumers with bathing.
31 When a consumer has skilled skin care needs or skilled dressings that
32 will need attention before, during or after bathing, the consumer should
33 be in the care of an agency licensed as a home health agency or a
34 professional home care agency to meet those specific needs.[HCAC209]
- 35 (4) Dressing. A personal care worker may assist a consumer with dressing.
36 This may include assistance with ordinary clothing and application of
37 support stockings of the type that can be purchased without a physician's
38 prescription. A personal care service worker may not assist with
39 application of an Ace bandage and anti-embolic or pressure stockings
40 that can be purchased only with a physician's prescription.
- 41 (5) Exercise. A personal care worker may assist a consumer with exercise.
42 However, this does not include assistance with a plan of exercise
43 prescribed by a licensed health care professional. A worker may remind
44 the consumer to perform ordered exercise program. Assistance with
45 exercise that can be performed by a personal care service worker is
46 limited to the encouragement of normal bodily movement, as tolerated,
47 on the part of the consumer and, encouragement with a prescribed
48 exercise program. Passive range of motion (ROM) may not be
49 performed by a personal care worker.

- 1 (6) Feeding. Assistance with feeding may generally be performed by a
2 personal service worker. Personal care workers can assist consumers
3 with feeding when the consumer can independently chew and swallow
4 without difficulty and be positioned upright. Assistance by a personal
5 care worker does not include syringe, tube feedings and intravenous
6 nutrition. Whenever there is a high risk that the consumer may choke as
7 a result of the feeding the consumer should be in the care of an agency
8 licensed as a home health or professional home care agency to fulfill this
9 function.[HCAC210]
- 10 (7) Hair care. As a part of the broader set of services provided to
11 consumers who are receiving personal services, personal care service
12 agencies may assist consumers with the maintenance and appearance
13 of their hair. Hair care within these limitations may include shampooing
14 with non-medicated shampoo or shampoo that does not require a
15 physician's prescription, drying, combing and styling of hair.
- 16 (8) Mouth care. A personal care worker may assist and perform mouth care.
17 This may include denture care and basic oral hygiene. Mouth care for
18 consumers who are unconscious, has difficulty swallowing or at risk for
19 choking and aspiration should be performed by an agency licensed as
20 home health agency or professional home care agency.[HCAC211]
- 21 (9) Nail care. Assistance with nail care can be generally performed by a
22 personal care worker. This assistance may include soaking of nails,
23 pushing back cuticles without utensils, and filing of nails. Assistance by
24 a personal care worker may not include nail trimming. Consumers with a
25 medical condition that might involve peripheral circulatory problems or
26 loss of sensation should be under the care of an agency licensed as a
27 home health agency or professional home care agency to meet this
28 need.[HCAC212]
- 29 (10) Positioning. A personal care worker may assist a consumer with
30 positioning when the consumer is able to identify to the personal care
31 staff, verbally, non-verbally or through others, when the positions needs
32 to be changed AND only when skilled skin care, as previously described,
33 is not required in conjunction with the positions. Positioning may include
34 simple alignment in a bed, wheelchair, or other furniture.
- 35 (11) Shaving. A personal care worker may assist a consumer with shaving
36 only with an electric or a safety razor.
- 37 (12) Toileting. A personal care worker may assist a consumer to and from
38 the bathroom, provide assistance with bedpans, urinals, and commodes;
39 pericare; or changing of clothing and pads of any kind used for the care
40 of incontinence.
- 41 (13) A personal care worker may empty urinary collection devices, such as
42 catheter bags. In all cases, the insertion and removal of catheters and
43 care of external catheters is considered skilled care and may NOT be
44 performed by a personal care service worker.
- 45 (14) A personal care worker may empty ostomy bags and provide assistance
46 with other consumer-directed ostomy care only when there is no need for
47 skilled skin care or for observation or reporting to a nurse. An in-home

- 1 personal care worker may not perform digital stimulation, insert
2 suppositories or give an enema.
- 3 (15) Transfers. A personal care worker may assist with transfers only when
4 the consumer has sufficient balance and strength to reliably stand and
5 pivot and assist with the transfer to some extent. Adaptive and safety
6 equipment may be used in transfers, provided that the consumer and
7 personal care service worker is fully trained in the use of the equipment
8 and can direct the transfer step by step. Adaptive equipment may
9 include, but is not limited to wheel chairs, tub seats and grab bars. Gait
10 belts may be used in a transfer as a safety device for the personal care
11 service worker as long as the worker has been properly trained in its use.
- 12 (a) A personal care worker shall not perform assistance with
13 transfers when the consumer is unable to assist with the transfer.
14 In-home services workers, with training and demonstrated
15 competency, may assist a consumer in a transfer involving a lift
16 device.
- 17 (16) Medication reminding. A personal care worker may assist a consumer
18 with medication reminding only when medications have been
19 preselected, by the consumer, a family member, a nurse, or a
20 pharmacist, and are stored in containers other than the prescription
21 bottles, such as medication minders. Medication minder containers shall
22 be clearly marked as to day and time of dosage, and reminding includes:
23 inquiries as to whether medications were taken; verbal prompting to take
24 medications; handing the appropriately marked medication minder
25 container to the consumer; and, opening the appropriately marked
26 medication minder container for the consumer if the consumer is
27 physically unable to open the container. These limitations apply to all
28 prescription and all over-the-counter medications. Any irregularities
29 noted in the pre-selected medications, such as medications taken too
30 often or not often enough, or not at the correct time as marked in the
31 medication minder container, shall be reported immediately by the
32 personal care service worker to the supervisor.
- 33 (17) Respiratory care is considered skilled care and may NOT be performed
34 by a personal care worker. Respiratory care includes postural drainage,
35 cupping, adjusting oxygen flow within established parameters, nasal,
36 endotracheal, and tracheal suctioning, and turning off or changing tanks.
37 However, personal care workers may temporarily remove and replace a
38 cannula or mask from the consumer's face for the purposes of shaving,
39 washing a consumer's face.
- 40 (18) Accompaniment. Accompanying the consumer to medical appointments,
41 banking errands, basic household errands, clothes shopping, and
42 grocery shopping to the extent necessary and as specified on the service
43 plan may be performed by the personal care worker when all the care
44 that is provided by the personal care staff in relation to the trip is
45 unskilled personal care, as described in these regulations. [HCAC213]
- 46 (19) Protective Oversight. A personal care worker may provide protective
47 oversight including stand-by assistance with any personal care task
48 described in these regulations. When the consumer requires protective
49 oversight to prevent wandering, the personal care worker shall have
50 been trained in appropriate intervention and redirection techniques.

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- 1 (20) Respite Care and Companionship. A personal care worker may provide
2 respite and companionship in the consumer's home according to the
3 service plan as long as the necessary provision of services during this
4 time does not include skilled personal care services as described in this
5 regulation.
- 6 (21) Housekeeping Services. A personal care worker may provide
7 housekeeping services, such as dusting, vacuuming, mopping, cleaning
8 bathroom and kitchen areas, meal preparation, dishwashing, linen
9 changes, laundry, and shopping in accordance with the service contract.
10 Where meal preparation is provided, the personal care worker should
11 receive instruction regarding any special diets required to be prepared.
- 12 (E) In addition to the exclusions prescribed in the preceding section, the agency shall
13 not allow personal care workers to:
- 14 (1) Perform skilled personal care services as defined in this section;
15 (2) Perform or provide medication set-up for a consumer; or
16 (3) Perform other actions specifically prohibited by agency policy,
17 regulations or law.
- 18 (F) In addition to the exclusions prescribed in the preceding section, the agency shall
19 not allow non-relative care providers to:
- 20 (1) Become or act as a Power of Attorney, or
21 (2) Be involved in any financial transactions of the consumer, including
22 check writing or account management, outside of contracted services
23 such as grocery shopping or running general errands. In such cases, the
24 HCA worker shall follow agency policies in regard to securing receipts for
25 items purchased and ensuring both consumer and worker signatures
26 documenting those expenditures.
- 27 (g) Supervision of a personal care worker shall:
- 28 (1) Be performed by a qualified employee of the agency who is in a
29 designated supervisory capacity and available to the worker for
30 questions at all times;
- 31 (2) Provide on-site [HCAC214]supervision at a minimum every ~~90 days~~quarter
32 [HCAC215]and includes an assessment of consumer satisfaction with
33 services and the personal care worker's adherence to the service plan.
- 34 (3) Include evaluation of each personal care worker providing services at
35 least annually. The evaluation shall include observation of tasks
36 performed and relationship with the consumer.
- 37 (4) ~~Not constitute time or an activity that can be billed as a service to the~~
38 ~~consumer.[HCAC216]~~
- 39 ~~In-Home~~ Personal Care Worker Training[HCAC217]

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- 1 (A) The agency is responsible for assuring that the individuals who furnish personal care
2 services on its behalf are competent to carry out all assigned tasks in the consumer's
3 place of residence. Proof of a competency evaluation conducted by the agency manager
4 or via another qualified[HCAC218] representative of the agency shall address each of the
5 following subjects:
- 6 (1) ~~The employee's job responsibilities and limitations.~~[HCAC219]
- 7 (2) Communication skills in areas such as with persons, who are hard of hearing,
8 have dementia, or other special needs.
- 9 (3) Observation, reporting and documentation of consumer status and the service
10 furnished.
- 11 (4) Performance and supervisory observation of personal care tasks for consumers
12 including but not limited to: bathing, skin care, hair care, nail care, mouth care,
13 shaving, dressing, feeding, assistance with ambulation, exercise and transfers,
14 positioning, bladder and bowel care, and medication reminding.
- 15 (5) Performance of ability to assist in the use of specific adaptive equipment if the
16 worker will be assisting consumers who use the device.
- 17 (6) Basic hygiene and basic infection control practices.
- 18 (7) Maintenance of a clean, safe and healthy environment, including appropriate
19 cleaning techniques, and sanitary meal preparation.
- 20 (8) Basic personal and environmental safety precautions.
- 21 (9) Recognizing emergencies and knowledge of emergency procedures including
22 basic first aid.
- 23 (10) Confidentiality of consumer personal, financial and health information;
- 24 (11) Knowledge and understanding of abuse and neglect prevention and reporting
25 requirements.
- 26 (12) Any other task that the agency may choose to have the worker perform that is
27 not skilled care.[HCAC220]
- 28 (B) The agency shall ensure the employee can demonstrate knowledge and competency in
29 personal care tasks before independent assignment. All personal care staff shall
30 complete agency orientation before independently providing services to consumers.
- 31 ~~(NEW) For new staff without verified work history as Personal Care Worker or equivalent, a~~
32 ~~minimum of 16 hours of training within the first 45 days of employment [HCAC221] shall be~~
33 ~~provided, inclusive of orientation, which can include self-study courses with~~
34 ~~demonstration of learned concepts, and are applicable to the employee's~~
35 ~~responsibilities[HCAC222].~~
- 36 (1) Orientation shall include:
- 37 - Employee duties and responsibilities

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- 1 - Consumer Rights including freedom from abuse or neglect, and
- 2 confidentiality of consumer information and records.

- 3 - Hand washing and Infection Control

- 4 - Assignment and supervision of services

- 5 - Documentation of consumer needs and services provided

- 6 - Emergency response policies and emergency contact numbers for the
- 7 agency and for the individual consumer assigned

- 8 ~~Other appropriate training based on the special needs of the consumers for~~
- 9 ~~which the employee is assigned to provide services before completion of~~
- 10 ~~initial training.[HCAC223]~~

- 11 ~~Training and competency evaluation of appropriate and safe techniques in all~~
- 12 ~~personal care tasks for each assigned task to be conducted before~~
- 13 ~~completion of initial training.[HCAC224]~~

- 14 (2) Initial Training shall include, but is not limited to:

- 15 - The roles of, and coordination with, other community services providers.

- 16 - Description of services provided by the agency

- 17 - Appropriate training in accordance with needs of special needs populations
- 18 served by the agency.

- 19 - Recognizing and responding to suspected medical emergencies

- 20 - Dealing with difficult people and adverse behaviors including behavioral
- 21 management techniques for cognitively disabled individuals.

- 22 - Methods and techniques to prevent skin breakdown, contractures and falls.

- 23 - Differences in personal care, CNA care and health care in the home.
- 24 Including limiting factors for the provision of personal care.

- 25 - Ethics and expectations of the agency[HCAC225]

- 26 - Home and fire safety

- 27 - Basic First Aid[HCAC226]

- 28 - Nutrition and hydration, including special diets, meal preparation, and
- 29 service.

- 30 - Appropriate and safe techniques in all personal care tasks. Areas include
- 31 bathing, skin care, hair care, nail care, mouth care, shaving, dressing,
- 32 feeding, assistance with ambulation, exercises and transfers, positioning,
- 33 bladder care, bowel care, medication reminding, homemaking tasks, and
- 34 protective oversight.

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- 1 (3) Initial orientation and training shall not be required for returning employees under
2 the following conditions:
- 3 - The employee completed training and competency assessment required by
4 this section by the employing agency at the time of initial employment.
 - 5 - The employee had completed employment or became inactive no more than
6 12 months before the date of rehire or reactivation.
 - 7 - The employee did not have direct care performance issues in the prior active
8 period of employment.
 - 9 - All orientation, training, and personnel action documentation is retained in
10 personnel files.
- 11 (4) Employees with proof of current healthcare related licensure or certification are
12 exempt from training in the provision of personal care tasks as long as such
13 training is recognized as included in the training for that health discipline. The
14 agency shall perform a competency evaluation to ensure the employee is able to
15 appropriately perform all personal care tasks. All other training requirements
16 shall apply.
- 17 (5) Employees moving from one office to another in the same agency are not subject
18 to additional training requirements, provided previous training is documented and
19 the offices have the same orientation and training procedures.
- 20 [HCAC227](C) Ongoing training shall be provided to all [HCAC228]direct care staff. Training shall
21 consist of at least 12 hours every 12 months after the starting date of employment or
22 calendar year as designated by agency policy. The training requirement shall be
23 prorated in accordance with the number of months the employee was actively working for
24 the agency. ~~Training shall include, but is not limited to, the following items:~~
- 25 ~~(1) Promoting consumer dignity, independence, self-determination, privacy, choice
26 and rights; including abuse and neglect prevention and reporting requirements.~~
 - 27 ~~(2) Dealing with difficult people including behavioral management techniques for
28 cognitively disabled individuals.~~
 - 29 ~~(3) Disaster and Emergency procedures.~~
 - 30 ~~(4) Hygiene and infection control including universal precautions.~~
 - 31 ~~(5) Nutrition and hydration.~~
 - 32 ~~(6) Areas of bathing, skin care, hair care, nail care, shaving, dressing, feeding,
33 assistance with ambulation, exercises and transfers, positioning, bladder care,
34 bowel care, medication reminding, homemaking, and protective oversight.~~
 - 35 ~~(7) Basic first aid.~~
 - 36 ~~(8) Basic home safety.~~
- 37 [HCAC229](D) All training shall be documented. Classroom type trainings shall be documented
38 with the date of the training; starting and ending times; instructors and their qualifications;
39 short description of content; and staff member's signature. On-line or self-study trainings

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1 shall be documented with information as to the content of the training; and the entity that
2 offered or produced the training. All training documentation shall include a copy of any
3 quiz or other comprehension tool to show the employee understood and properly applied
4 the training presented. [HCAC230][HCAC231]