

SECTION 5 – DEPARTMENT OVERSIGHT

5.1 LICENSE CLASSIFICATION

- (A) A HOME CARE AGENCY SHALL BE ISSUED A LICENSE CONSISTENT WITH THE TYPE AND EXTENT OF SERVICES PROVIDED. UNLESS OTHERWISE SPECIFIED, EACH AGENCY SHALL MEET THE REQUIREMENTS IN SECTION 6 OF THIS CHAPTER AS WELL AS SECTIONS 7 AND/OR 8 DEPENDING UPON THE SERVICES PROVIDED.

CLASS A – A HOME CARE AGENCY THAT PROVIDES ANY SKILLED HEALTHCARE SERVICE. AN AGENCY WITH A CLASS A LICENSE MAY ALSO PROVIDE PERSONAL CARE SERVICES.

CLASS B – A HOME CARE AGENCY THAT PROVIDES ONLY PERSONAL CARE SERVICES. AN AGENCY WITH A CLASS B LICENSE SHALL NOT PROVIDE ANY SKILLED HEALTHCARE SERVICE.

- (B) AN AGENCY PROVIDING HOME CARE SERVICES THAT ARE REGULATED BY THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING (HCPF), EXCLUDING CERTIFIED AGENCIES DEFINED IN SECTION 3.4 OF THIS CHAPTER, SHALL BE LICENSED AS A CLASS B AGENCY UNLESS OTHERWISE SPECIFIED BELOW.

- (1) ANY AGENCY PROVIDING SERVICES REGULATED BY HCPF OR THE DEPARTMENT OF HUMAN SERVICES (DHS) THAT ALSO PROVIDES SKILLED CARE OR SERVICES DELIVERED BY A LICENSED PROFESSIONAL SHALL BE LICENSED AS A CLASS A AGENCY.

- (A) **IN REVIEWING COMPLIANCE WITH THE REQUIREMENTS OF THIS CHAPTER BY THE PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY ESTABLISHED IN SECTION 25.5-5-412, C.R.S., THE DEPARTMENT SHALL COORDINATE WITH HCPF IN REGULATORY INTERPRETATION OF BOTH LICENSE AND CERTIFICATION REQUIREMENTS TO ENSURE THE INTENT OF SIMILAR REGULATIONS IS CONGRUENTLY MET.**

- (B) **ANY AGENCY PARTICIPATING IN THE IN-HOME SUPPORT SERVICE (IHSS) PROGRAM ADMINISTERED BY HCPF, SHALL BE LICENSED AS A CLASS B AGENCY AND SHALL COMPLY WITH BOTH HCPF'S REGULATIONS AND THE APPLICABLE PORTIONS OF SECTION 8 OF THIS CHAPTER. THE DEPARTMENT SHALL COORDINATE WITH HCPF IN REGULATORY INTERPRETATION OF BOTH LICENSE AND CERTIFICATION REQUIREMENTS TO ENSURE THE INTENT OF SIMILAR REGULATIONS IS CONGRUENTLY MET.**

- (2) IF AN AGENCY'S GOVERNING BODY, AFTER CONSULTATION WITH THE ADVISORY COMMITTEE, ADMINISTRATOR OR AGENCY MANAGER, DETERMINES A HOME CARE REGULATION SUBSTANTIALLY IMPEDES ITS ABILITY TO PROVIDE APPROPRIATE AND EFFECTIVE SERVICES TO THE CONSUMER

OR SUBSTANTIALLY IMPEDES THE APPROPRIATE AND EFFECTIVE SERVICES OF THE TOTAL PROGRAM, THE DEPARTMENT MAY APPROVE AN ALTERNATE PLAN AS LONG AS THE HEALTH, SAFETY, WELFARE AND RIGHTS OF THE CONSUMER IS ASSURED.

5.5 INSPECTIONS

- (A) A CERTIFIED HOME CARE AGENCY THAT APPLIES FOR A LICENSE BY JUNE 1, 2009, SHALL BE EXEMPT FROM LICENSURE INSPECTION PRIOR TO ISSUANCE OF THE INITIAL LICENSE.
- (B) **THE DEPARTMENT SHALL INVESTIGATE AND REVIEW EACH INITIAL AND RENEWAL LICENSE APPLICATION IN ORDER TO DETERMINE AN APPLICANT'S COMPLIANCE WITH THIS CHAPTER. THIS DETERMINATION SHALL BE BASED ON ONE OR MORE OF THE FOLLOWING:**
 - (1) **AN ON-SITE INVESTIGATION OF THE AGENCY;**
 - (2) **A REVIEW OF THE APPLICATION AND ASSOCIATED DOCUMENTS;**
 - (3) **A REVIEW OF THE AGENCY'S COMPLIANCE HISTORY, INCLUDING THE RESULTS OF COMPLAINT INVESTIGATIONS;**
 - (4) **A REVIEW OF OCCURRENCE REPORTS;**
 - (5) **A REVIEW OF MATERIAL PROVIDED BY THE AGENCY PURSUANT TO A DEPARTMENT REQUEST;**
 - (6) **INTERVIEWS OF AGENCY STAFF AND/OR CONSUMERS;**
 - (7) **A REVIEW OF INFORMATION AVAILABLE FROM NATIONAL ACCREDITATION ORGANIZATIONS, CMS AND HCPF; AND**
 - (8) **ANY OTHER INFORMATION THE DEPARTMENT DETERMINES IS APPROPRIATE TO ASCERTAIN SUCH COMPLIANCE.**
- (C) THE DEPARTMENT SHALL MAKE SUCH INSPECTIONS AS IT DEEMS NECESSARY TO ENSURE THAT THE HEALTH, SAFETY AND WELFARE OF HOME CARE CONSUMERS ARE BEING PROTECTED. IN ADDITION TO LICENSURE INSPECTIONS, THE DEPARTMENT MAY CONDUCT SUPPLEMENTAL INSPECTIONS AT ANY TIME IN RESPONSE TO COMPLAINTS ALLEGING NONCOMPLIANCE WITH THE REGULATIONS CONTAINED IN THIS CHAPTER.
 - (1) CONSUMER RECORDS KEPT IN THE HOME OR INDIVIDUAL CONSUMER DOCUMENTS NOT INCLUDED IN THE HCA'S PERMANENT RECORD SHALL BE MADE AVAILABLE TO THE DEPARTMENT WITHIN TWO HOURS OF REQUEST IF THE LAST VISIT OCCURRED 14 OR MORE DAYS PRIOR TO THE REQUEST. THE DEPARTMENT MAY EXTEND, AT ITS DISCRETION, THE TIME FOR PRODUCTION.

- (2) THE CONSUMER FILE AND ADMINISTRATIVE RECORDS INCLUDING, BUT NOT LIMITED TO, CENSUS AND DEMOGRAPHIC INFORMATION, COMPLAINT AND INCIDENT REPORTS, MEETING MINUTES, QUALITY ASSURANCE AND ANNUAL PROGRAM REVIEW DOCUMENTS SHALL BE PROVIDED TO THE INSPECTOR WITHIN 30 MINUTES OF REQUEST. THE DEPARTMENT MAY EXTEND, AT ITS DISCRETION, THE TIME FOR PRODUCTION.
 - (D) INSPECTIONS SHALL NOT BE CONDUCTED IN A HOME CARE CONSUMER'S HOME WITHOUT THE CONSUMER'S CONSENT.
 - (E) THE HCA SHALL PROVIDE ACCURATE AND TRUTHFUL INFORMATION TO THE DEPARTMENT DURING INSPECTIONS, INVESTIGATIONS AND LICENSING ACTIVITIES. FAILURE TO PROVIDE INFORMATION REQUESTED BY THE DEPARTMENT AND KNOWN TO THE AGENCY SHALL BE GROUNDS FOR ACTION AGAINST A LICENSE.
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7.10 PLAN OF CARE

- (A) CARE FOLLOWS A WRITTEN PLAN OF CARE ESTABLISHED AND PERIODICALLY REVIEWED BY A DOCTOR OF MEDICINE, OSTEOPATHY, OR PODIATRIC MEDICINE. CARE PLANS ESTABLISHED BY A NURSE PRACTITIONER OR PHYSICIAN ASSISTANT MAY BE ACCEPTED BY AN HCA THAT IS NOT FEDERALLY CERTIFIED AS A HOME HEALTH AGENCY. **FOR PACE PARTICIPANTS, THE INTERDISCIPLINARY TEAM SHALL ESTABLISH, FOLLOW AND PERIODICALLY REVIEW THE PLAN OF CARE.**
 - (1) THE PLAN OF CARE SHALL BE DEVELOPED IN CONSULTATION WITH THE AGENCY STAFF AND COVERS ALL PERTINENT DIAGNOSES, INCLUDING MENTAL STATUS, TYPES OF SERVICES, IDENTIFICATION OF ANY SERVICES FURNISHED BY OTHER PROVIDERS AND HOW THOSE SERVICES ARE COORDINATED, EQUIPMENT REQUIRED, FREQUENCY AND DURATION OF VISITS, PROGNOSIS, REHABILITATION POTENTIAL, FUNCTIONAL LIMITATIONS, ACTIVITIES PERMITTED, INSTRUCTIONS FOR TIMELY DISCHARGE OR REFERRAL, AND ANY OTHER APPROPRIATE ITEMS.