



To: Members of the State Board of Health

From: Elaine McManis, Deputy Division Director, Health Facilities & Emergency Medical Services Division

Through: D. Randy Kuykendall, Director, Health Facilities & Emergency Medical Services Division (DRK)

Date: December 15, 2021

Subject: Rulemaking Hearing concerning 6 CCR 1011-1, Chapter 26 - Home Care Agencies

The Colorado Department of Public Health and Environment (Department), through regulations promulgated by the State Board of Health, is granted the statutory authority to set minimum standards for the operation of Home Care Agencies and Home Care Placement Agencies, which are codified at 6 CCR 1011-1, Chapter 26 (Home Care Agencies). The purpose of these standards is to ensure the health, safety, and welfare of home care consumers who receive care in their temporary or permanent home or place of residence.

The Department first established standards for Home Care Agencies and Home Care Placement Agencies in 2009, and although there have been a few isolated substantive changes since that time, there has been no comprehensive review of the entire regulatory set. As such, the Department, through the Health Facilities and Emergency Medical Services Division (Division), began a comprehensive review of these regulations in October 2020, in order to modernize the language, respond to changes in industry standards and practices, and ultimately ensure these standards continue to protect the health, safety, and welfare of Coloradans utilizing home care services. The Division hosted monthly stakeholder meetings from October 2020 through September 2021, attended by an average of over 150 people each month.

This rulemaking is needed to update and clarify the rules, reduce duplication to Chapter 2 - General Licensure Standards, support current industry standards and future training programs, streamline the organization and flow of the chapter, and ultimately lessen the burden of implementation for providers. There have been minor changes made to the proposed language since the Request for Hearing, most of which are non-substantive, clarification changes, and all of which are highlighted in yellow in the attached language.

**STATEMENT OF BASIS AND PURPOSE
AND SPECIFIC STATUTORY AUTHORITY**

for Amendments to
6 CCR 1011-1, Standards for Hospitals and Health Facilities
Chapter 26 - Home Care Agencies

Basis and Purpose.

The Colorado Department of Public Health and Environment (Department) first established standards for Home Care Agencies and Home Care Placement Agencies in 2009, and although there have been a few isolated substantive changes since that time, there has been no comprehensive review of the entire regulatory set. As such, substantial updates to the rules were needed to ensure they continue to protect the health, safety, and welfare of Coloradans utilizing home care services, and specifically modernize the language and respond to changes in industry standards and practices. Additionally, non-substantive changes were made throughout the chapter to reduce duplication, streamline the organization and flow, and lessen the burden of implementation.

Prior to the initial adoption of the regulations in 2009, home care agencies were not subject to regulation by the State. As such, it was necessary to duplicate some portions of Chapter 2 - General Licensure Standards, to ensure newly licensed agencies understood the requirements and could achieve compliance. After many years of licensure with the Department, the redundancy and duplication with Chapter 2 is no longer needed. Changes related to this are found primarily in proposed Part 3 (Home Care Placement Agencies) and proposed Part 4 (Department Oversight), where much of the duplication was removed except when stakeholders requested to keep the language for extra clarity. In many places in the chapter, cross references to Chapter 2 were added in place of the current language, all of which is denoted in comments in the rule.

The biggest areas of change are found in proposed Part 7 (Non-medical/Personal Care), specifically related to the requirements for training of homemakers and personal care workers. The Colorado Department of Healthcare Policy and Financing (HCPF) approached the Department early on in the stakeholder engagement process to discuss creating a new structure to train and oversee these types of workers, based on recommendations developed by the Training Advisory Committee, which was established in response to Senate Bill 19-238 in order to gather stakeholder feedback and develop specific and actionable recommendations related to home care worker minimum training, notification of pay increases, and training enforcement. The Health Facilities and Emergency Medical Services Division (Division) met with HCPF outside of stakeholder meetings several times to work through proposed language, as well as engaged HCPF in the broader stakeholder meetings in order to reach consensus that this new structure supports where the industry is headed and will provide greater worker protections.

There were many instances where additional guidance was requested by stakeholders in order to more fully understand the intent of the Division's rule language. In the cases where the language is better suited in guidance rather than rule, that is noted and tracked in comments. The Division will develop this guidance during the implementation of these regulations, should the Board adopt them.

Changes are proposed in almost every area of the chapter, ranging from minor re-organizations and removing redundancy to substantive changes. The following list outlines the changes proposed in each major part of the chapter:

Part 1 - Statutory Authority and Applicability (previously Section 1)

- Additional language was added to ensure consistency among the health facility chapters and standardization of Division practices.

Removed existing Section 2 - General Provisions

- When these rules were first promulgated, additional context and language was provided in the chapter to support newly licensed agencies. This language is no longer needed and does not align with practices across other health facility rule chapters, and has thus been removed.

Part 2 - Definitions (previously Section 3)

- The existing definitions were updated to reflect changes in the chapter, including removing any terms no longer used in the chapter as well as adding new definitions to reflect the need for a clear understanding of those terms as they are used throughout the chapter.

Part 3 - Placement Agencies (previously Section 4)

- Few substantive changes are proposed. Primarily, obsolete language was removed and minimal language was reorganized.
- Language duplicative to Chapter 2 was removed and cross references to Chapter 2 were added instead.

Part 4 - Department Oversight (previously Section 5)

- Language was updated to reflect current program structures in other state agencies, updated internal Division processes, and statutory changes that have been made since the language was first written.
- Language duplicative to Chapter 2 was removed and cross referenced where necessary.

Part 5 - General Requirements for all License Categories (previously Section 6)

- This entire part was reorganized to provide clarity and a more natural flow in the regulations, reducing the burden of provider implementation.
- Language was modified in places to reflect statutory changes, to support current industry practices, and to address issues with consumers receiving adequate care.
- The section addressing Emergency Preparedness was rewritten with the assistance of a small workgroup (solicited from membership of the larger stakeholder group) that met in April and May 2021. The updated language adds a risk assessment component as part of developing an emergency preparedness plan, modernizes outdated language, and bolsters the existing requirements in order to support current industry standards and practices, and ensure the safety of consumers and personnel. The language developed by the small workgroup was presented to the larger stakeholder group where consensus was gained.

Part 6 - Skilled Care (previously Section 7)

- Language was modified to clarify the requirements and responsibilities of personnel in a skilled home care agency.
- The requirement for a Professional Advisory Committee was removed as it is no longer a Centers for Medicare and Medicaid Services (CMS) requirement and was identified as an onerous requirement for agencies.
- The written summary report requirement in Plan of Care was modified after extensive stakeholder feedback. A written summary used to be required every 60 days for all

consumers, and stakeholders indicated that this was often duplicated or carried over from the month prior, with no change, and represented very little value-added. Under the new requirements, a summary will only be required for consumers who experienced a change in status or needs that necessitated a change in the plan of care.

- The inclusion of a section on Telehealth Supervisory Visits is new to this chapter, and was prompted by Senate Bill 20-212 and the rapid expansion of healthcare delivery through telehealth during the COVID-19 pandemic and beyond. The proposed revisions allow for nurse aide supervision to be conducted via telehealth under certain circumstances, specified in the regulations. The Division used language from an existing waiver program, which has been in place throughout the pandemic, as a model for this new language.
- The section on Clinical Records is new to this part, and was added due to the need for skilled home care agencies to have additional record requirements that are not appropriate for inclusion in the general requirements for all home care agencies.

Part 7 - Non-medical/Personal Care (previously Section 8)

- This entire part was reorganized to provide clarity and a more natural flow to the regulations. Additionally, modifications were made in the Governing Body, Administration, and Agency Manager sections to provide more flexibility in meeting regulations and to create a system of greater accountability through evaluation and analysis.
- The current Personal Care Worker requirements were entirely restructured in order to more closely align with the training program being developed by HCPF, in response to the recommendations of the Training Advisory Committee. The purpose of these changes ultimately is to ensure worker safety, proper training, and retention, and to move towards a structure in the rules that provides greater transferability and flexibility for home care agencies and the workforce into the future. The new language creates a stacked model where “homemaker” is now the base requirement and a “personal care worker” must meet all of the homemaker requirements plus additional requirements specific to their training needs and responsibilities. This does not alter the current way of doing things so much as it provides a more streamlined and adaptable structure that will align with the future of the industry.
- The language on Telehealth Supervisory Visits was also added to this part, and allows for supervision of homemakers and personal care workers to be conducted via telehealth under certain circumstances specified in the regulations.

Specific Statutory Authority.

Statutes that require or authorize rulemaking:

Section 25-1.5-103, C.R.S.

Section 25-3-101, C.R.S.

Section 25-27.5-101, et seq., C.R.S.

Is this rulemaking due to a change in state statute?

Yes, the bill number is _____. Rules are authorized required.
 No

Does this rulemaking include proposed rule language that incorporate materials by reference?

Yes URL

No

Does this rulemaking include proposed rule language to create or modify fines or fees?

Yes

No

Does the proposed rule language create (or increase) a state mandate on local government?

No

- The proposed rule does not require a local government to perform or increase a specific activity for which the local government will not be reimbursed;
- The proposed rule requires a local government to perform or increase a specific activity because the local government has opted to perform an activity, or;
- The proposed rule reduces or eliminates a state mandate on local government.

REGULATORY ANALYSIS
For Amendments to
6 CCR 1011-1, Standards for Hospitals and Health Facilities
Chapter 26 - Home Care Agencies

1. A description of the classes of persons affected by the proposed rule, including the classes that will bear the costs and the classes that will benefit from the proposed rule.

Group of persons/entities Affected by the Proposed Rule	Size of the Group	Relationship to the Proposed Rule Select category: C/S/B
Licensed Home Care Agencies	794	C
Home Care Agencies pending initial license (as of 9/1/21)	17	C
Registered Home Care Placement Agencies	8	
Consumers receiving care by a licensed home care agency	Unknown	B
Alliance Colorado	Unknown	S
Alzheimer's Association	Unknown	S
Aspen Healthcare Consulting	Unknown	S
Center for People with Disabilities	Unknown	S
Colorado Care Workers Unite	Unknown	S
Colorado Health Care Training	Unknown	S
Colorado Physical Therapy Association	2,455 physical therapists, physical therapist assistants, and physical therapist assistant students	S
Colorado Visiting Nurse Association	Unknown	S
Consultants for Children Inc.	Unknown	S
Developmental Disabilities Resource Center	Unknown	S
Home Care & Hospice Association of Colorado	Unknown	S
Mountain View Consulting	Unknown	S
Nursing and Therapy Services of Colorado	Unknown	S
Personal Assistance Services of Colorado	Unknown	S
The Crag Business Group	Unknown	S

While all are stakeholders, groups of persons/entities connect to the rule and the problem being solved by the rule in different ways. To better understand those different relationships, please use this relationship categorization key:

- C = individuals/entities that implement or apply the rule.
- S = individuals/entities that do not implement or apply the rule but are interested in others applying the rule.
- B = the individuals that are ultimately served, including the customers of our customers. These individuals may benefit, be harmed by or be at-risk because of the standard communicated in the rule or the manner in which the rule is implemented.

More than one category may be appropriate for some stakeholders.

2. To the extent practicable, a description of the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

Economic outcomes

Summarize the financial costs and benefits, include a description of costs that must be incurred, costs that may be incurred, any Department measures taken to reduce or eliminate these costs, any financial benefits.

C: The Colorado Department of Public Health and Environment (Department) does not foresee an economic impact to home care agencies and home care placement agencies, as the intent of the rule is to bring the language up to current industry standard and ensure the rules support the agencies in meeting consumers' needs in an effective, safe, and reliable manner. The substance of the rules has not been altered in such a way that would create an economic impact to licensed home care agencies. It is the Department's intent that clearer regulations will result in improved health, safety, and welfare for Colorado consumers who utilize home care services.

Non-economic outcomes

Summarize the anticipated favorable and non-favorable non-economic outcomes (short-term and long-term), and, if known, the likelihood of the outcomes for each affected class of persons by the relationship category.

C: The proposed rule changes increase the readability, organization, and clarity of the rules, and should lessen the burden of implementation for providers, many of whom expressed confusion about certain requirements during stakeholder meetings. The Department worked extensively with stakeholders to ensure the proposed rules are easier to understand and ultimately easier to implement. This may have a positive long-term economic impact on agencies, but is considered cost-neutral and a non-economic, administrative impact in the short-term.

C&B: Creating a more robust Emergency Preparedness section will allow home care agencies to be better equipped to respond to emergencies, and will result in greater protection and safety to agency staff and their consumers.

B: The proposed rule changes increase protections for consumers who will benefit from the changes made to consumer's rights and worker training with improved care and improved health outcomes.

3. The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

- A. Anticipated CDPHE personal services, operating costs or other expenditures:

The proposed amendments are cost neutral.

Anticipated CDPHE Revenues:

The proposed amendments are revenue neutral.

- B. Anticipated personal services, operating costs or other expenditures by another state agency:

N/A

Anticipated Revenues for another state agency:

N/A

4. A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

Along with the costs and benefits discussed above, the proposed revisions:

- Comply with a statutory mandate to promulgate rules.
- Comply with federal or state statutory mandates, federal or state regulations, and department funding obligations.
- Maintain alignment with other states or national standards.
- Implement a Regulatory Efficiency Review (rule review) result.
- Improve public and environmental health practice.
- Implement stakeholder feedback.

Advance the following CDPHE Strategic Plan priorities (select all that apply):

Reduce Greenhouse Gas (GHG) emissions economy-wide from 125.716 million metric tons of CO₂e (carbon dioxide equivalent) per year to 119.430 million metric tons of CO₂e per year by June 30, 2020 and to 113.144 million metric tons of CO₂e by June 30, 2023.

- Contributes to the blueprint for pollution reduction
- Reduces carbon dioxide from transportation
- Reduces methane emissions from oil and gas industry
- Reduces carbon dioxide emissions from electricity sector

Reduce ozone from 83 parts per billion (ppb) to 80 ppb by June 30, 2020 and 75 ppb by June 30, 2023.

- Reduces volatile organic compounds (VOC) and oxides of nitrogen (NO_x) from the oil and gas industry.
- Supports local agencies and COGCC in oil and gas regulations.
- Reduces VOC and NO_x emissions from non-oil and gas contributors

Decrease the number of Colorado adults who have obesity by 2,838 by June 30, 2020 and by 12,207 by June 30, 2023.

- Increases the consumption of healthy food and beverages through education, policy, practice and environmental changes.
- Increases physical activity by promoting local and state policies to improve active transportation and access to recreation.
- Increases the reach of the National Diabetes Prevention Program and Diabetes Self-Management Education and Support by collaborating with the Department of Health Care Policy and Financing.

Decrease the number of Colorado children (age 2-4 years) who participate in the WIC Program

<p>and have obesity from 2120 to 2115 by June 30, 2020 and to 2100 by June 30, 2023.</p> <p>___ Ensures access to breastfeeding-friendly environments.</p>
<p>Reverse the downward trend and increase the percent of kindergartners protected against measles, mumps and rubella (MMR) from 87.4% to 90% (1,669 more kids) by June 30, 2020 and increase to 95% by June 30, 2023.</p> <p>___ Reverses the downward trend and increase the percent of kindergartners protected against measles, mumps and rubella (MMR) from 87.4% to 90% (1,669 more kids) by June 30, 2020 and increase to 95% by June 30, 2023.</p> <p>___ Performs targeted programming to increase immunization rates.</p> <p>___ Supports legislation and policies that promote complete immunization and exemption data in the Colorado Immunization Information System (CIIS).</p>
<p>Colorado will reduce the suicide death rate by 5% by June 30, 2020 and 15% by June 30, 2023.</p> <p>___ Creates a roadmap to address suicide in Colorado.</p> <p>___ Improves youth connections to school, positive peers and caring adults, and promotes healthy behaviors and positive school climate.</p> <p>___ Decreases stigma associated with mental health and suicide, and increases help-seeking behaviors among working-age males, particularly within high-risk industries.</p> <p>___ Saves health care costs by reducing reliance on emergency departments and connects to responsive community-based resources.</p>
<p>The Office of Emergency Preparedness and Response (OEPR) will identify 100% of jurisdictional gaps to inform the required work of the Operational Readiness Review by June 30, 2020.</p> <p>___ Conducts a gap assessment.</p> <p>___ Updates existing plans to address identified gaps.</p> <p>___ Develops and conducts various exercises to close gaps.</p>
<p>For each identified threat, increase the competency rating from 0% to 54% for outbreak/incident investigation steps by June 30, 2020 and increase to 92% competency rating by June 30, 2023.</p> <p>___ Uses an assessment tool to measure competency for CDPHE's response to an outbreak or environmental incident.</p> <p>___ Works cross-departmentally to update and draft plans to address identified gaps noted in the assessment.</p> <p>___ Conducts exercises to measure and increase performance related to identified gaps in the outbreak or incident response plan.</p>
<p>100% of new technology applications will be virtually available to customers, anytime and anywhere, by June 20, 2020 and 90 of the existing applications by June 30, 2023.</p> <p>___ Implements the CDPHE Digital Transformation Plan.</p> <p>___ Optimizes processes prior to digitizing them.</p> <p>___ Improves data dissemination and interoperability methods and timeliness.</p>
<p>10. Reduce CDPHE's Scope 1 & 2 Greenhouse Gas emissions (GHG) from 6,561</p>

metric tons (in FY2015) to 5,249 metric tons (20% reduction) by June 30, 2020 and 4,593 tons (30% reduction) by June 30, 2023.

- Reduces emissions from employee commuting
 Reduces emissions from CDPHE operations

11. Fully implement the roadmap to create and pilot using a budget equity assessment by June 30, 2020 and increase the percent of selected budgets using the equity assessment from 0% to 50% by June 30, 2023.

- Used a budget equity assessment

Advance CDPHE Division-level strategic priorities.

- Regulatory Review

The costs and benefits of the proposed rule will not be incurred if inaction was chosen. Costs and benefits of inaction not previously discussed include:

Inaction has neither monetary cost nor benefit; however, inaction will result in a regulatory framework for home care agencies that is outdated and increasingly obsolete in today's healthcare landscape.

5. A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

The Department worked closely with stakeholders to ensure that there would not be substantial economic costs to the proposed regulations. During the process, none of the proposed revisions were identified by stakeholders as being overly costly or intrusive, therefore alternatives were not explored.

6. Alternative Rules or Alternatives to Rulemaking Considered and Why Rejected.

The Colorado Department of Healthcare Policy and Financing (HCPF) approached the Department with draft language that substantially altered the approach to homemaker and personal care worker requirements for non-medical home care agencies. The Department met with HCPF outside of stakeholder meetings several times to work through HCPF's proposed language, as well as engaged HCPF in the broader stakeholder meetings in order to reach consensus on the language. All agreed that this new structure supports where the industry is headed and will provide greater agency and worker protections.

Based on recommendations that came from the Training Advisory Committee, created as a result of Senate Bill 19-238, HCPF, and some stakeholders, also wanted the Department to include language that allowed homemakers and personal care workers to complete their mandatory training through the use of a portable, statewide curriculum. However, this curriculum has not yet been developed, and does not have a projected launch date. While the Department supports HCPF in the development of a statewide, reputable, portable curriculum, and commits to modifying Chapter 26 language in the future to incorporate this curriculum, the Department was unable to add language in rule for a program that does not yet exist and is unenforceable at this

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time. HCPF and the stakeholders understood this decision and ultimately consensus was reached.

7. To the extent practicable, a quantification of the data used in the analysis; the analysis must take into account both short-term and long-term consequences.

The Department reviewed several sources of information in the writing of these rules, including: the CMS State Operations Manual, which contain the regulations and explanatory guidance for the federal conditions of participation; Department of Health Care Policy and Financing laws and regulations; internal Division data on all licensed home care agencies and home care placement agencies; and deficiency information from past state licensure surveys. These sources, as well as the wealth of information and experience received through extensive stakeholder engagement, informed the Department's determination of best practices to incorporate into the proposed revisions.

STAKEHOLDER ENGAGEMENT
for Amendments to
6 CCR 1011-1, Standards for Hospitals and Health Facilities
Chapter 26 - Home Care Agencies

State law requires agencies to establish a representative group of participants when considering to adopt or modify new and existing rules. This is commonly referred to as a stakeholder group.

Early Stakeholder Engagement:

The following individuals and/or entities were invited to provide input and included in the development of these proposed rules:

Organization	Representative Name and Title (if known)
24/7 Home Health Care	Tatyana Akhmetova
A Caring Heart Home Health	Felicia Stockstill
A Circle of Care Colorado	Cate Baze
	Joaire Giordano
A to Z Homecare	Leo Bekker
AAA Personal Care Services	Guadalupe Lugo
Abama Home Care, Inc.	Danielle Golovan, Manager
Abby Senior Care	Jeni Winslow, Executive Director
ABC Home Health Care Personal Services	Jeanette Ortiz
Accredo Nurse Practice	Lisa Albert Farrens
Alamosa County Public Health Department	Lena Martinez
Alfa Best Home Care	Marci Miller
All For Kids Home Health	Andrea Cunningham, RN, BSN
Alliance (IDD providers and CCBs)	Ellen Jensby
Alliance Colorado	Josh Rael
Alliance of Therapy Specialists	John Cady
Alpine PT Home Care	Amy Zurcher
	Chuck Philipp
	Suzanne Phillips
Always Best Care	Erin Nichols
Alzheimer's Association	Coral Cosway
Amazing Care Home Health	Katherine Mataev, Administrator
	Sonja Scott
Amity Healthcare Group	Irina Gorovaya
Angel Heart Homecare	Sarah Alshaeli
Angel's Advocate Home Care	Danna Molleda
	Debi
Angels of Care Pediatric Home Health	Jennifer Rahrer
Angels Services LLC	Renee
Argus Home Health Care	Angela Valdez, Director of Nursing
	Iva Lou Bailey, President
	Marilyn Grandberg

Organization	Representative Name and Title (if known)
	Michele Guttman, Controller
	Sandy Martin
	Patti DeGeorge
	Rosalie Garbiso
Argus Home Health Care/Ark Valley Home Care	Danny Manzanares
Ark Valley Home Care	Chrissie Valencia
Aspen Healthcare Consulting	Tammy Lindgren
AvaRe Healthcare	Cara Light, BSN RN DCS
Aveanna Healthcare	Charles McAleer
	Chelby Jackson, Director
Azin Home Care	Marzieh Ghavi
Bayada Home Health Care	Bethany Beets
	Bonali Barua Kautz, Director of Clinical Operations
	Paula Lopez
	Stephanie Ortiz-Grabe
Beacon Home Care	Marina Gougoulian
Berkeley Home Care	Kristen Kail, Director of Clinical Services
BMH Corp, LLC	Yuliya Gostishcheva
Boulder Community Health	Julie Blakie
	Lisa Allen
Bridges Homecare and Hospice	Vanessa Boyd
Briggs Home Care/ Abby Senior Care	Sybl Romley
BrightStar Care Home Care	Donny Sepin
BrightStar Care Home Health	Jasmine Green
	Nancy Hicks
Brightstar Care of Greeley	Shantay Marcos
Capital Home Health Care Inc.	Ali Said
Caregivers Village Colorado	Dave Bunch, Administrator
Castle Rock Home Care	Nicole Kopecky
Center for People with Disabilities	Lisa Nelson
Centura Health	Erica MacDonald
	Stacy Ragogna
Centura Health at Home	Cassandra Pratt (Penrose St. Francis Health Services)
	Jen Litowkin (Bristlecone Home Health)
	Patricia Vertun
	Tina Gallegos (Mercy Home Care and Hospice)
Circle of Life Home Care	Martha Sparks
Colorado Care Workers Unite	Cecil Crudo
	Melissa Benjamin
Colorado Department of Healthcare Policy and Financing	Alicia Ethredge
	Candace Bailey
	Erin Thatcher

Organization	Representative Name and Title (if known)
	John Lentz
	Kristine Dos Santos
	Matt Colussi
	Todd Coffey
Colorado Department of Public Health and Environment	Beck Furniss, Policy Advisor
	Cassie Lowery
	Cheryl McMahon, Home and Community Facilities Branch Chief
	Christine McGroarty, Fiscal and Administrative Services Branch Chief
	Elaine McManis, Deputy Director
	Jane Flournoy, IDD Community Services Section Manager
	Karen Harvey
	Kristi Uitich, Home Care Services Supervisor
	Michelle Reese, Senior Policy Advisor
	Steve Cox, Home Care Services Section Manager
Colorado Family Caregivers	Darryl Perkins
Colorado Health Care Training	Connie McWilliams
Colorado Physical Therapy Association	Kasey Baker
Colorado Visiting Nurse Association	Cindi Pursley
	Tanya McAllister, Educator
Columbine Caregivers	David Audino
ComForCare Home Care	Chris Wining (Northern CO)
	Mike Stanley
	Shannon Ralph (Denver West)
Comfort Keepers	Brent Eggeman (Denver)
	Erin Youngblood (Durango)
	Hollie Contreas (Denver)
	Trina Crow (Durango)
ComfortCare at Home	Sola Oyelakin
Community Connections Inc.	Julie Ferguson
Complete Home Health Care	Cathy Kaufman
Conifer Historical Society and Museum	
Consultants for Children Inc.	Angela Ely
	Robyn Tharp
Continuum of Colorado	Josabeth Way
	Shelly Wilson
Cowboy Home Care	Melissa Kamm
Craft Health	Kaitlin Stanton
Denver Home Care Solutions, LLC	Sue Grounds
Developmental Disabilities Resource Center	Diana Patty
Developmental Pathways Home Health Agency	Kelly Waanders
Dominican Home Health Agency	Audri Wesseln

Organization	Representative Name and Title (if known)
	Leeanne Super, CFO
DRCOG's Long Term Care and PACE Ombudsman Program	Shannon Gimbel
Eben Ezer Lutheran Care Center	Dakota Luark, In-Home Care Manager Lynelle Phillips
EDsy Home Care	Samsara Botica
Elderlink Home Care, Inc.	Karen Moorehead
Envida Home Care	Megan Madigan
Evergreen & Compassion Home Care, LLC	Dorcas Okhihan
Excellent Personal Home Care Health Inc.	Maria Lares
FirstLight HomeCare	Jenna Fieser (Boulder) Susan Dellinger (Denver West)
Foothills Gateway, Inc.	Cynthia Hansford John DeVos
Front Range Pediatric Therapies	Julie Herndon
Frontier Home Health	Cassy Schilling
Gateway Home Health and Hospice	Jan Arnott
Giving Home Health	Carol Cook
Golden Harmony Inc.	Michael Goldman
Golden Time Personal Care	Narine Gazarian Olga Gurkovskaya
Good Golden Home Care Agency	Irina Iksanova
Heart of the Rockies Home Health and Hospice	Kelly Dunavin Tambra Stutes Vonnie Fox
High Priority Inc. Home Health Care	Alla Khachaturova, RN, Administrator
Higher Living Home Care	Carlos Alcatraz
Hildebrand Home Care	Kimberly Diodosio
Hilltop Brain Injury Services	Rachel Moore, Non-Residential Coordinator
Home Care & Hospice Association of Colorado	Alan Morse Eliza Schultz, Lobbyist Elisabeth Rosen, Contract Lobby Team
Home Care Assistance	Deanna Spicher, Employee Care Manager
Home Care Assistance, Centennial	Amy Lane
Home Instead Senior Care	Curt Foust Jayna Connolly Sullivan Kelly Murphy (Colorado Springs) Kristin Goluska, DSW Mike Lammers
Homewatch CareGivers	Rick Grimes (Lakewood) Roger Rhodes, Owner and Managing Director
Homewell Care Services of Colorado	Thomas Mangas
HopeWest	Tierney Gallagher Torrey Anderson

Organization	Representative Name and Title (if known)
HopeWest PACE Home Care	Crystal Morris
Horizon Home Care	Jill McCormick
	Shannon Ashley
Imagine!	Jenna Sallee
	Victoria Thorne
InnovAge	Courtney Despos
Interim Health Care	Catherine Konaszewski
	Cynthia Ringling, RN (Southeastern CO)
	Erika Upchurch
	Jimmy Trujillo III, Administrator (Pueblo)
	Monica Garzan
JJN Home Health Agency, Inc.	Rhonda Goodwin (Pueblo)
	Jennifer Nelson
Klarus Home Care	Aubrey Johns
	Erin Mansbridge
Lenka's Loving Care	Lenka
Liberty Home Care, LLC	Administrator
Life Care, Inc.	Brenda Valdez
	Savannah McIntosh, Care Supervisor
	Trish Martin
LT Therapy Services dba First Steps Pediatric Therapy, Inc	Lisa Tarr, Owner
	Priscilla DeCianne, Alternate Administrator
Lucky You Home Care Services, LLC	Sayera Kamilova, Administrator
Maxim Healthcare Services	Brittany Legleiter
	John Howell
	Tina Marquez
	Virginia Emme
Maxim Home Health Care	Ashleigh Biegel, RN
McLellan Homecare, Boulder	Dan McLellan
Mental Health Center of Aurora	Eugene Medina
MGA Homecare	Alex Koloskus
Mina Home Care	Mina
	Muhiba Birashk
Mission HCS	Feri Rahgozar
Mountain Valley Developmental Services	Adam Juul
	John Klausz
	Sara Sims
Mountain View Consulting	Leslie Rothman
Mountain View Home Care	Alyssa Bogstad
	Misha Ash
Mt. Evans Home Health Care & Hospice	Suzanne Feroldi
Nursing and Therapy Services of Colorado	Crystal Smartt, RN
	Danielle Guthrie

Organization	Representative Name and Title (if known)
	Jennifer Martarano
	Kristin Waldrop
	Shawn Brooks
	Traci Turchin
Nuclear Care Partners	Stacey Mueller
NurseCore	Cassandra Goldbach, Branch Director
	Miranda Erisman, Clinical Director
Nurture Home Health Care, Inc.	Marshea Freant-Vitt
OASIS/Front Range Therapists	Lacy Hoyer-Helms
Optio Health Services/ The Denver Hospice	Bobbi Tadwalt
	Leilani Smith, Clinical Manager
Optum Infusion	Raven Starr
Paragon Health	Patrick Emrich, RN
	Danielle Jenkins
Paragon Infusion Care	Maria Salazar, RN, Director of Nursing/Administrator
	Pamela McIntyre
Parker Personal Care Homes	Lindsay Menough
Parkview Medical Center/Parkview Homecare	Kelea Nardini
	Bernadette Munoz-Conklin
Personal Assistance Services of Colorado/SW Home Health	Evelyn Quigley
	Tiffany Hill
	Yvette Tanner, CEO
Peaks Home Health, LLC/ Brookdale at Home	Gifty Opare
Pediatric Therapy of Colorado	Rick Affolter
Pentec Health Inc.	Jamie Schultz
	Tim Herrera
PeopleCare Health Services	Lorin Chevalier
	Sarah Engels
Personal Assistance Services of Colorado	Denise Hodgert
Personal Touch Senior Services Colorado	Rosemarie Romano
Professional Home Health Care	Merrill Pilot
Prowers Medical Center Home Health	Micaela Aguilera
Rain Home Care	Arah Hof
	Carol
Rhythms Home Care	Jamie Davis
	Janice Crowley
Right at Home Grand Junction	David McKendry
	Sarah Kelley
Rocky Mountain PACE	Anita Pope
Sand and Sage Personal Care Agency	Jackie Hiner
Sangre de Cristo Community Care	Carlos Samora

Organization	Representative Name and Title (if known)
SCL Home Health	Sonya Neumann, Executive Director
Seniors Helping Seniors	Joanne Thompson (Northern CO)
	Stacy Newman-Roolf
Seniors Home Care	John Tong
Sevens Home Care	Jessica Johnson
Shifo Home Health Inc.	Nika
	Shahnoz
Snowy Peak Community Services	Jayne
Solace Healthcare	Lindsay Miller
Southeast Colorado Home Health and Hospice	Crystal Rush, RN
Spark Home Health	Jenny Vail-Stencel, Administrator
	Teresa Hakar
Strive	Taylor Leonard
Summit West Care	Shelley Thiel
Supreme Health Care, LLC	Anar Badamkhand
Synergy HomeCare	Benjamin Budraitis, President
	Leighton Boyce (Longmont)
T Wisdom, LLC	Tiffany Turner
Talem Home Care	Marcy Kowalski
	Rachel Wilson (Broomfield)
Team Select Home Care	Carla Persson, Director of Clinical Operations
	Colby Kostur
	Heather Hale
Tender Care Pediatric Services	Cierra Tracy
	Heidi Dailey
	Sarah Reinman
Tender Hearts Home Health Care	Heather Robles
The Academy Boulder	Kim Mortensen
The Business of Senior Care	Lucas Carroll
The Coach Home Care	Teresa Barnett
The Crag Business Group	Donna Floyd
The Independence Center	Indy Frazee
	June Johnston, RN, Home Health Clinical Manager
Thrive Skilled Pediatric Care	Ann Martin
	Tania Hansen
Touch of Care Montrose	Tyler Martinez
Touching Hearts at Home	Lindsay Strong, Administrator
Transitions Home Health Care	Alaina Page
True Care, LLC	Hang Duong
Trusted Ally Home Care	Whitney Brown
Visions 4 You Home Care	Sarah Bibb
Visiting Angels	Maggie Blake, RN
	Debbie Harrison (Grand Junction)

Organization	Representative Name and Title (if known)
	Greg Elliott (Denver, Westminster, and Boulder)
	Michelle Johnson (Southwest CO)
	Terry Ruch (Aurora)
Volunteers of America Home Health	Tara Wilson
Voyager Home Health Care	Anna McLain
	Crystal
	Jordan Jaquin
	Ryan Thompson
We Care Home Health, Firestone	Lori Palmisano
Western Slope In-Home Care	Dehlia Dodd
White Horse Health and Wellness Centers	Amy Rodriguez
	Sharla Norris
Wind Crest Home Support Services	Terri Dankelman, Home Support Manager
Windhorse Community Services	Judy Halloran
	Polly Banerjee Gallagher
Windhorse Elder Care Inc.	Chrystal Nelthropp
	Jyoti Sharp, Owner
	Stephanie Kindberg
World of Wellness Home Care	Mary Davis
	AJ Geist
	Amanda Doty
	Amanda Ferigan
	Angie DeVries
	April Garcia
	Ashley Grant
	BB Angels
	Bee Angels
	Besrat Bejiga
	Bethany Farrell
	Bette Dejanovich
	Brion Neill
	Carmella Stevens
	Carol Riggerbach
	Carolyn Shockley
	Carrie Owens
	Cecilia Rosadia
	Celine Juteau
	Dan Roda
	Dan Zalk
	Danele Velasquez
	David Geras
	Denise Thacker
	Devin Myers

Organization	Representative Name and Title (if known)
	Elizabeth Fritz
	Ellen Caruso
	Eric Walton
	Erick Hendrick
	Gabrielle Deuth
	Gary Ruvins
	Heather Brozek
	Herman Ortiz
	Jackson Lambert
	Jamie Donovan
	Janet Beiriger
	Janet Pasterkamp
	Jennifer Perez
	Jenny Albertson
	Jeny Knight
	Jesica Hauck
	Jody Dufour
	Jody Vigil-Namoca
	Joe Giauque
	Josabeth Mejia
	Joseph Leach
	Joshua Shipman
	Julian Eighmy
	June Haskin, Administrator
	Katie Spindle
	Kim Ivy
	Kitty Vradenburg
	Kristie Braaten
	Kristin Ceriani
	Kristy Miller
	Lacey Bean
	Latisha Jackson
	Laura Neill
	Lindsey Combs
	Lindy Rucker
	Lisa Olsen
	Lynn Hendricks
	Lynnette Jones
	Maria Whetsel
	Mariah Colangelo
	Mary Alice
	Matt Payne
	Meghan Skovran

Organization	Representative Name and Title (if known)
	Melanie Sims
	Melissa Pelkey
	Michael Pierce
	Michelle Tenorio
	Mickey Aguilera
	Nancy Lederhos
	Natalie Grace
	Nika Jumaeva
	Patti Von Riesen
	Renee Worthington
	Sabe Kemer
	Sako Bagramyan
	Sandi McCann
	Sarah Canosa
	Sarah Roberts
	Scott Harper
	Shanae Zion
	Shellie Finn
	Sheryl Bellinger
	Sue Mergen
	Susanne Anderson
	Tara Bogle
	Tim Evans
	Tim Thornton
	Todd Chambers
	Tracie Dominguez
	Tracy Hiester
	Tsetsegmaa Ganbayar
	Tyson Morgan

The Health Facilities and Emergency Medical Services Division (Division) held twelve (12) monthly meetings between October 2020 and September 2021. 657 unique participants attended the monthly meetings over the course of the process.

All stakeholder meetings were open to the public, and there was substantial interest and attendance, as documented in the table above. All licensed home care agencies, home care placement agencies, and interested stakeholders were provided notice of meetings and of alternate methods of providing feedback. The Division sent meeting information through its portal messaging system to impacted agencies and directly emailed 339 unique stakeholders that signed up to receive such emails as “interested parties.” Meeting information and documents were posted to a Colorado Department of Public Health and Environment (Department) google drive in advance of each meeting, including the draft rules for discussion.

Stakeholder Group Notification

The stakeholder group was provided notice of the rulemaking hearing and provided a copy of the proposed rules or the internet location where the rules may be viewed. Notice was provided prior to the date the notice of rulemaking was published in the Colorado Register (typically, the 10th of the month following the Request for Rulemaking).

Not applicable. This is a Request for Rulemaking Packet. Notification will occur if the Board of Health sets this matter for rulemaking.

Yes.

Summarize Major Factual and Policy Issues Encountered and the Stakeholder Feedback Received. If there is a lack of consensus regarding the proposed rule, please also identify the Department's efforts to address stakeholder feedback or why the Department was unable to accommodate the request.

The major policy issue encountered during the stakeholder process was the request from the Colorado Department of Healthcare Policy and Financing (HCPF) to include exemptions for training for homemakers and personal care workers if they utilize a statewide, portable training curriculum that does not currently exist. This training program is one of the key recommendations from the Training Advisory Committee, which was formed in response to Senate Bill 19-238 in order to gather stakeholder feedback and develop specific and actionable recommendations related to minimum training, worker notification of pay increases, and training enforcement.

The Department met with HCPF outside of stakeholder meetings several times to work through HCPF's proposed language, as well as engaged HCPF in the broader stakeholder meetings. HCPF attended the stakeholder meetings with representatives from home care agencies and Colorado Care Workers Unite to speak on behalf of a statewide, portable training curriculum. While the Department supports HCPF in the development of a statewide, reputable, portable training curriculum, and plans to modify Chapter 26 language in the future to accommodate this change, the Department was unable to add language in rule for a curriculum that does not yet exist and is unenforceable. HCPF and stakeholders understood this decision and consensus was reached with the agreement that the Department will open the chapter when the curriculum is developed and widely-available, which will result in long-term benefits for the entire home care industry.

Please identify the determinants of health or other health equity and environmental justice considerations, values or outcomes related to this rulemaking:

Overall, the proposed rule continues to hold all licensed facilities to the same standards, regardless of location or population served. Language was updated in personal care worker tasks to reflect cultural sensitivity around product use and consumer care, as well as language and guidance to support translator services for consumers and their families, both of which may currently be a barrier to accessing services.

Overall, after considering the benefits, risks and costs, the proposed rule:

Select all that apply.

	Improves behavioral health and mental health; or, reduces substance abuse or suicide risk.	X	Reduces or eliminates health care costs, improves access to health care or the system of care; stabilizes individual participation; or, improves the quality of care for unserved or underserved populations.
	Improves housing, land use, neighborhoods, local infrastructure, community services, built environment, safe physical spaces or transportation.	X	Reduces occupational hazards; improves an individual's ability to secure or maintain employment; or, increases stability in an employer's workforce.
	Improves access to food and healthy food options.		Reduces exposure to toxins, pollutants, contaminants or hazardous substances; or ensures the safe application of radioactive material or chemicals.
X	Improves access to public and environmental health information; improves the readability of the rule; or, increases the shared understanding of roles and responsibilities, or what occurs under a rule.		Supports community partnerships; community planning efforts; community needs for data to inform decisions; community needs to evaluate the effectiveness of its efforts and outcomes.
	Increases a child's ability to participate in early education and educational opportunities through prevention efforts that increase protective factors and decrease risk factors, or stabilizes individual participation in the opportunity.	X	Considers the value of different lived experiences and the increased opportunity to be effective when services are culturally responsive.
	Monitors, diagnoses and investigates health problems, and health or environmental hazards in the community.	X	Ensures a competent public and environmental health workforce or health care workforce.
X	Other: Complies with Department's obligation to ensure all regulations are consistent with state law.		Other: _____ _____

An Act

SENATE BILL 20-212

BY SENATOR(S) Winter and Tate, Crowder, Bridges, Cooke, Coram, Danielson, Donovan, Fenberg, Fields, Gardner, Ginal, Gonzales, Hansen, Hisey, Holbert, Lee, Lundeen, Moreno, Pettersen, Priola, Rankin, Sonnenberg, Story, Todd, Williams A., Woodward, Zenzinger, Garcia; also REPRESENTATIVE(S) Lontine and Soper, Landgraf, Will, Arndt, Bird, Bockenfeld, Buckner, Buentello, Caraveo, Carver, Coleman, Cutter, Duran, Esgar, Exum, Froelich, Gonzales-Gutierrez, Gray, Herod, Hooton, Jackson, Jaquez Lewis, Kennedy, Kipp, Kraft-Tharp, McCluskie, McLachlan, Melton, Michaelson Jenet, Mullica, Pelton, Rich, Roberts, Sandridge, Singer, Sirota, Snyder, Sullivan, Titone, Valdez A., Valdez D., Van Winkle, Weissman, Woodrow, Young.

CONCERNING REIMBURSEMENT FOR HEALTH CARE SERVICES PROVIDED THROUGH TELEHEALTH, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly finds that:

- (a) On March 27, 2020, the federal government enacted the

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

"Coronavirus Aid, Relief, and Economic Security Act" ("CARES Act"), Pub.L. 116-136, Stat. 281 (2020), pursuant to which Colorado received approximately \$1,674,000,000 from the federal coronavirus relief fund to use for necessary expenditures incurred due to the current COVID-19 public health emergency;

(b) On May 18, 2020, the Colorado governor issued Executive Order 2020 D 070, transferring \$70,000,000 from the state "CARES Act" fund to the state general fund for eligible expenditures;

(c) The expenditures in this bill are considered an allowable use under the federal "CARES Act" and are necessary to respond to the COVID-19 public health emergency; and

(d) The expenditures in this bill were not accounted for in the Colorado state budget most recently approved as of March 27, 2020, and all of the expenses will be incurred on or before December 30, 2020.

(2) The general assembly further finds and declares that:

(a) The expenditures in this bill will be used to protect the health and safety of both caregivers and patients by ensuring that access to telehealth services are available to all Coloradans;

(b) Due to the unanticipated effects of COVID-19, many patients have been unable or unwilling to seek out care through in-person settings;

(c) The need to access health care services is compounded by the challenges associated with COVID-19, as Coloradans are experiencing the negative effects the pandemic has on physical, mental, and emotional health that will extend into future years; and

(d) Access to telehealth is vital to ensuring the continuity of physical, mental, and behavioral health care for Coloradans during the COVID-19 pandemic and responding to any future outbreaks of the virus.

SECTION 2. In Colorado Revised Statutes, 10-16-123, **amend** (2)(e) and (4)(e); **repeal** (4)(d); and **add** (4)(b.5) as follows:

10-16-123. Telehealth - definitions. (2) (e) A carrier shall not:

(I) Impose an annual dollar maximum on coverage for health care services covered under the health benefit plan that are delivered through telehealth, other than an annual dollar maximum that applies to the same services when performed by the same provider through in-person care;

(II) IMPOSE SPECIFIC REQUIREMENTS OR LIMITATIONS ON THE HIPAA-COMPLIANT TECHNOLOGIES THAT A PROVIDER USES TO DELIVER TELEHEALTH SERVICES, INCLUDING LIMITATIONS ON AUDIO OR LIVE VIDEO TECHNOLOGIES;

(III) REQUIRE A COVERED PERSON TO HAVE A PREVIOUSLY ESTABLISHED PATIENT-PROVIDER RELATIONSHIP WITH A SPECIFIC PROVIDER IN ORDER FOR THE COVERED PERSON TO RECEIVE MEDICALLY NECESSARY TELEHEALTH SERVICES FROM THE PROVIDER; OR

(IV) IMPOSE ADDITIONAL CERTIFICATION, LOCATION, OR TRAINING REQUIREMENTS ON A PROVIDER AS A CONDITION OF REIMBURSING THE PROVIDER FOR PROVIDING HEALTH CARE SERVICES THROUGH TELEHEALTH.

(4) As used in this section:

(b.5) "REMOTE MONITORING" MEANS THE USE OF SYNCHRONOUS OR ASYNCHRONOUS TECHNOLOGIES TO COLLECT OR MONITOR MEDICAL AND OTHER FORMS OF HEALTH DATA FOR INDIVIDUALS AT AN ORIGINATING SITE AND ELECTRONICALLY TRANSMIT THAT INFORMATION TO PROVIDERS AT A DISTANT SITE SO PROVIDERS CAN ASSESS, DIAGNOSE, CONSULT, TREAT, EDUCATE, PROVIDE CARE MANAGEMENT, SUGGEST SELF-MANAGEMENT, OR MAKE RECOMMENDATIONS REGARDING A COVERED PERSON'S HEALTH CARE.

(d) "~~Synchronous interaction~~" means a ~~real-time interaction between a patient located at the originating site and a provider located at a distant site.~~

(e) (f) "Telehealth" means a mode of delivery of health care services through HIPAA-COMPLIANT telecommunications systems, including information, electronic, and communication technologies, REMOTE MONITORING TECHNOLOGIES, AND STORE-AND-FORWARD TRANSFERS, to facilitate the assessment, diagnosis, consultation, treatment, education, care management, or self-management of a covered person's health care while the covered person is located at an originating site and the provider is

located at a distant site. The term includes:

- (A) Synchronous interactions;
- (B) Store-and-forward transfers; and
- (C) ~~Services provided through HIPAA-compliant interactive audio-visual communication or the use of a HIPAA-compliant application via a cellular telephone.~~
- (H) ~~"Telehealth" does not include the delivery of health care services via:~~
 - (A) ~~Voice-only telephone communication or text messaging;~~
 - (B) ~~Facsimile machine; or~~
 - (C) ~~Electronic mail systems.~~

SECTION 3. In Colorado Revised Statutes, 25-27.5-104, **add** (1.5) as follows:

25-27.5-104. Minimum standards for home care agencies and home care placement agencies - rules - advisory committee. (1.5) TO THE EXTENT THE STATE BOARD RULES ADOPTED PURSUANT TO SUBSECTION (1) OF THIS SECTION ADDRESS SUPERVISION REQUIREMENTS FOR HOME CARE AGENCIES, THE RULES MUST ALLOW FOR SUPERVISION IN PERSON OR BY TELEMEDICINE OR TELEHEALTH. ANY RULES ADOPTED BY THE STATE BOARD PURSUANT TO THIS SUBSECTION (1.5) SHALL BE IN CONFORMITY WITH APPLICABLE FEDERAL LAW AND MUST TAKE INTO CONSIDERATION THE APPROPRIATENESS, SUITABILITY, AND NECESSITY OF THE METHOD OF SUPERVISION PERMITTED.

SECTION 4. In Colorado Revised Statutes, 25-54-102, **amend** (2)(a) as follows:

25-54-102. Statewide system for advance directives created - rules. (2) (a) Upon the request of an individual, or authorized surrogate decision-maker, a qualified provider that has an agreement with the health information organization network as required under the federal "Health

Insurance Portability and Accountability Act of 1996", Pub.L. 104-191, as amended, may upload the individual's advance health care directive to the system. The advance health care directive shall only be uploaded to the system by a qualified provider after the individual or authorized surrogate decision-maker has consulted with the qualified provider in person or through telehealth, as defined in ~~section 10-16-123 (4)(e)(f)~~ SECTION 10-16-123 (4)(e). A qualified provider who THAT uploads an advance health care directive to the system is not subject to civil or criminal liability or regulatory sanction for action taken in accordance with this subsection (2).

SECTION 5. In Colorado Revised Statutes, 25.5-5-320, **amend** (1) introductory portion; and **add** (2.1), (2.5), (6), and (7) as follows:

25.5-5-320. Telemedicine - reimbursement - disclosure statement - definition - repeal. (1) On or after July 1, 2006, in-person contact between a health care or mental health care provider and a patient ~~shall~~ is not be required under the state's medical assistance program for health care or mental health care services delivered through telemedicine that are otherwise eligible for reimbursement under the program. ANY HEALTHCARE OR MENTAL HEALTH CARE SERVICE DELIVERED THROUGH TELEMEDICINE MUST MEET THE SAME STANDARD OF CARE AS AN IN-PERSON VISIT. TELEMEDICINE MAY BE PROVIDED THROUGH INTERACTIVE AUDIO, INTERACTIVE VIDEO, OR INTERACTIVE DATA COMMUNICATION, INCLUDING BUT NOT LIMITED TO TELEPHONE, RELAY CALLS, INTERACTIVE AUDIOVISUAL MODALITIES, AND LIVE CHAT, AS LONG AS THE TECHNOLOGIES ARE COMPLIANT WITH THE FEDERAL "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996" PUB.L. 104-191, AS AMENDED. The HEALTH CARE OR MENTAL HEALTH CARE services ~~shall be~~ ARE subject to reimbursement policies developed pursuant to the medical assistance program. This section also applies to managed care organizations that contract with the state department pursuant to the statewide managed care system only to the extent that:

(2.1) FOR THE PURPOSES OF REIMBURSEMENT FOR SERVICES PROVIDED BY HOME CARE AGENCIES, AS DEFINED IN SECTION 25-27.5-102 (3), THE SERVICES MAY BE SUPERVISED THROUGH TELEMEDICINE OR TELEHEALTH.

(2.5) (a) A TELEMEDICINE SERVICE MEETS THE DEFINITION OF A FACE-TO-FACE ENCOUNTER FOR A RURAL HEALTH CLINIC, AS DEFINED IN THE

FEDERAL "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 1395x (aa)(2). THE REIMBURSEMENT RATE FOR A TELEMEDICINE SERVICE PROVIDED BY A RURAL HEALTH CLINIC MUST BE SET AT A RATE THAT IS NO LESS THAN THE MEDICAL ASSISTANCE PROGRAM RATE FOR A COMPARABLE FACE-TO-FACE ENCOUNTER OR VISIT.

(b) A TELEMEDICINE SERVICE MEETS THE DEFINITION OF A FACE-TO-FACE ENCOUNTER FOR A MEDICAL CARE PROGRAM OF THE FEDERAL INDIAN HEALTH SERVICE. THE REIMBURSEMENT RATE FOR A TELEMEDICINE SERVICE PROVIDED BY A MEDICAL CARE PROGRAM OF THE FEDERAL INDIAN HEALTH SERVICE MUST BE SET AT A RATE THAT IS NO LESS THAN THE MEDICAL ASSISTANCE PROGRAM RATE FOR A COMPARABLE FACE-TO-FACE ENCOUNTER OR VISIT.

(c) A TELEMEDICINE SERVICE MEETS THE DEFINITION OF A FACE-TO-FACE ENCOUNTER FOR A FEDERALLY QUALIFIED HEALTH CENTER, AS DEFINED IN THE FEDERAL "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 1395x (aa)(4). THE REIMBURSEMENT RATE FOR A TELEMEDICINE SERVICE PROVIDED BY A FEDERALLY QUALIFIED HEALTH CENTER MUST BE SET AT A RATE THAT IS NO LESS THAN THE MEDICAL ASSISTANCE PROGRAM RATE FOR A COMPARABLE FACE-TO-FACE ENCOUNTER OR VISIT.

(6) (a) THE STATE DEPARTMENT SHALL POST TELEMEDICINE UTILIZATION DATA TO THE STATE DEPARTMENT'S WEBSITE NO LATER THAN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (6) AND SHALL UPDATE THE DATA EVERY OTHER MONTH THROUGH STATE FISCAL YEAR 2021-22. FOR STATE FISCAL YEARS 2020-21 AND 2021-22, THE STATE DEPARTMENT SHALL COMPILE, SUMMARIZE, AND REPORT ON THE UTILIZATION DATA TO THE PUBLIC THROUGH THE ANNUAL HEARING, PURSUANT TO THE "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART) GOVERNMENT ACT", PART 2 OF ARTICLE 7 OF TITLE 2.

(b) THIS SUBSECTION (6) IS REPEALED JULY 1, 2022.


(7) AS USED IN THIS SECTION, "HEALTH CARE OR MENTAL HEALTH CARE SERVICES" INCLUDES SPEECH THERAPY, PHYSICAL THERAPY, OCCUPATIONAL THERAPY, HOSPICE CARE, HOME HEALTH CARE, AND PEDIATRIC BEHAVIORAL HEALTH CARE.

SECTION 6. Appropriation. For the period from July 1, 2020, through December 30, 2020, \$5,068,381 is appropriated to the department of health care policy and financing. This appropriation is from the care subfund in the general fund. To implement this act, the department may use this appropriation for telemedicine expansion services. This appropriation must not be used for the state-share of medicaid services.


SECTION 7. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.



Leroy M. Garcia
PRESIDENT OF
THE SENATE


KC Becker
SPEAKER OF THE HOUSE
OF REPRESENTATIVES


Cindi L. Markwell
SECRETARY OF
THE SENATE


Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED July 6, 2020 at 11:57am
(Date and Time)


Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO

1 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
 2 Health Facilities and Emergency Medical Services Division
 3 STANDARDS FOR HOSPITALS AND HEALTH FACILITIES: CHAPTER 26 - HOME CARE AGENCIES
 4 6 CCR 1011-1 Chapter 26
 5 *[Editor's Notes follow the text of the rules at the end of this CCR Document.]*

6 _____
 7 **INDEX**
 8 **PART 1 – STATUTORY AUTHORITY AND APPLICABILITY**
 9 **PART 2 – DEFINITIONS**
 10 **PART 3 – PLACEMENT AGENCIES**
 11 **PART 4 – DEPARTMENT OVERSIGHT**
 12 **PART 5 – GENERAL REQUIREMENTS FOR ALL LICENSE CATEGORIES**
 13 **PART 6 – SKILLED CARE**
 14 **PART 7 – NON-MEDICAL/PERSONAL CARE**
 15 **PART**Section 1. STATUTORY AUTHORITY AND APPLICABILITY

16 1.1 Statutory Authority
 17 4.4The statutory authority for the promulgation of these rules is set forth in Sections 25-1.5-103 and 25-
 18 27.5-101, et seq., C.R.S.

19 1.2 APPLICABILITY
 20 4.2(A) A home care agency, as defined herein, shall comply with all applicable federal, and
 21 state, ~~AND LOCAL LAWS~~ statutes and regulations, including but not limited to, the following:
 22 (1a) This Chapter 26 as it applies to the type of services provided.
 23 (2b) 6 CCR 1011-1, Chapter 2, General Licensure Standards, unless otherwise
 24 modified herein.
 25 (B) ~~CONTRACTED SERVICES PERFORMED ON BEHALF OF THE HOME CARE AGENCY SHALL MEET THE~~
 26 ~~STANDARDS ESTABLISHED HEREIN.~~

27 Section 2. ~~GENERAL PROVISIONS~~
 28 2.1The purpose of these rules is to implement Title 25, Article 27.5 of the Colorado Revised Statutes and
 29 to protect and promote the health and welfare of home care consumers through the establishment and
 30 enforcement of regulations setting minimum standards for home care services that do not infringe on
 31 accessibility or affordability while maintaining accountability to help ensure the safety and well-being of
 32 home care consumers.

33 **PART**Section 32. DEFINITIONS
 34 32.1 "Authorized representative" means an individual responsible for the private payment of home care
 35 services or an individual who possesses written authorization from the consumer to represent his
 36 or her~~THEIR~~ interests regarding care, treatment, and services provided by the HOME CARE

Commented [BM1]: Striking this section as is it not necessary for licensure and not part of our other health facility rule chapters. Originally put in as introductory rule language when first promulgated.

37 ~~AGENCY~~HCA. The authorized representative shall not be the home care consumer's service
38 provider except as allowed by state Medicaid programs.

39 ~~3-22.2~~ "Branch office" means a location or site from which a home care agency provides services within
40 a portion of the total geographic area served by the parent agency. The branch office is part of
41 the home care agency and is located sufficiently close to share administration, supervision,
42 ~~PERSONNEL~~, and services in a manner that renders it unnecessary for the branch TO
43 independently to meet the requirements of this chapter.

44 ~~3-32.3~~ "Bylaws" means a set of rules adopted by a home care agency for governing the agency's
45 operation. ~~FOR PURPOSES OF THIS CHAPTER 26, "GOVERNING DOCUMENTS" IS SYNONYMOUS WITH~~
46 ~~"BYLAWS"~~.

47 ~~3-42.4~~ "Certified home care agency" means an agency that is certified by either the federal Centers for
48 Medicare and Medicaid Services (CMS) or the state Department of Health Care Policy and
49 Financing (HCPF) to provide skilled home health or personal care services.

50 ~~3-52.5~~ "Clinical note" means a written notation of a healthcare contact with a consumer that is signed,
51 with date and time, by an ~~employee~~ ~~PERSONNEL~~ of the home care agency that describes signs and
52 symptoms; treatment; education; drugs administered and the consumer's reaction; and any
53 changes in physical or emotional condition.

54 ~~3-62.6~~ "Community Centered Board" means a community-centered board, as defined in ~~S~~section 25.5-
55 10-202, C.R.S., that is designated pursuant to ~~S~~section 25.5-10-209, C.R.S., by the Department
56 of Health Care Policy and Financing.

57 ~~3-7~~ "Consumer" means a person who receives ~~skilled home health services or personal care services~~
58 ~~in his or her temporary or permanent home or place of residence from a home care agency or a~~
59 ~~provider referred by a home care placement agency.~~

Commented [BM2]: We define "consumer" and "home care consumer" using the same definition. Striking here.

60 ~~3-82.7~~ "Department" means the Colorado Department of Public Health and Environment.

61 ~~3-9~~ "Employee" means ~~any person providing home care and services on behalf of the agency.~~

62 ~~3-102.8~~ "Geographic area" means an area of land, for which the agency shall be licensed surrounding the
63 home care agency's primary location. There is no restriction as to the number of agencies that
64 may provide services in a particular geographic area.

65 ~~2.9~~ "GOVERNING BODY" MEANS THE BOARD OF TRUSTEES, DIRECTORS, OR OTHER GOVERNING ENTITY IN
66 WHOM THE ULTIMATE AUTHORITY AND RESPONSIBILITY FOR THE CONDUCT OF THE HOME CARE AGENCY IS
67 ~~VESTED.~~

Commented [BM3]: Language modified from FSED and other health facility chapters.

68 ~~3-142.10~~ "Home care agency" means any sole proprietorship, partnership, association,
69 corporation, government, or governmental subdivision or agency subject to the restrictions in
70 Section 25-1.5-103(1)(a)(II), C.R.S., not-for-profit agency, or any other legal or commercial entity
71 that manages and offers, directly or by contract, skilled home health services or personal care
72 services to a home care consumer in the home care consumer's temporary or permanent home
73 or place of residence. Home care agency is also referred to in this chapter as "HCA" or
74 "agency."

75 (A) A residential facility that delivers skilled home health or personal care services ~~which~~ ~~THAT~~
76 the facility is not licensed to otherwise provide, shall either be licensed as a home care
77 agency or require the skilled home health or personal care services to be delivered by a
78 licensed home care agency.

- 79 (B) "Home care agency" does not include:
- 80 (1) Organizations that provide only housekeeping services;
- 81 (2) Community and rural health networks that furnish home visits for the purpose of
82 public health monitoring and disease tracking;
- 83 (3) An individual who is not employed by or affiliated with a home care agency and
84 who acts alone, without employees or contractors;
- 85 (4) Outpatient rehabilitation agencies and comprehensive outpatient rehabilitation
86 facilities certified pursuant to Title 18 or 19 of the "Social Security Act," as
87 amended;
- 88 (5) Consumer-directed attendant programs administered by the Colorado
89 Department of Health Care Policy and Financing;
- 90 (6) Licensed dialysis centers that provide in-home dialysis services, supplies, and
91 equipment;
- 92 (7) Subject to the requirements of Section 25-27.5-103(3), C.R.S., a facility
93 otherwise licensed by the Department;
- 94 (8) A home care placement agency as defined in this section ~~section~~ **PART**;
- 95 (9) Services provided by a qualified early intervention service provider and overseen
96 jointly by the Department of Education and the Department of Human Services;
97 or
- 98 (10) A program of all-inclusive care for the elderly (PACE) established in ~~Section~~ **Section**
99 25.5-5-412, C.R.S., and regulated by the Department of Health Care Policy and
100 Financing and the CMS, except that PACE home care services are subject to
101 regulation in accordance with ~~Section~~ **Section** 25-27.5-104(4).
- 102 ~~3.12.11~~ "Home care consumer" means a person who receives skilled home health services or
103 personal care services in his or her ~~her~~ **THEIR** temporary or permanent home or place of residence
104 from a home care agency or from a provider referred by a home care placement agency. **A HOME**
105 **CARE CONSUMER IS ALSO REFERRED TO IN THIS CHAPTER AS "CONSUMER".**
- 106 ~~3.13.12~~ "Home care placement agency" means an organization that, for a fee, provides only
107 referrals of providers to home care consumers seeking services. A home care placement agency
108 does not provide skilled home health services or personal care services, **DIRECTLY OR BY**
109 **CONTRACT**, to a home care consumer in the home care consumer's temporary or permanent
110 home or place of residence ~~directly or by contract~~. Such organizations shall follow the
111 requirements of ~~Sections~~ **Sections** 25-27.5-101, et seq., C.R.S., that pertain to home care placement
112 agencies and ~~section 4~~ **PART 3** of this chapter ~~26~~.
- 113 ~~3.14.13~~ "Informal caregiver" means a person who provides care to the consumer **WITHOUT**
114 **PAYMENT AND WHO IS NOT AN EMPLOYEE OF THE AGENCY.** ~~when the paid caregiver is not in the home.~~
- 115 ~~3.15~~ "Intermediate care provider" means a nurse practitioner or physician assistant.
- 116 **2.14 "LICENSED INDEPENDENT PRACTITIONER" MEANS AN INDIVIDUAL PERMITTED BY LAW AND THE HCA TO**
117 **INDEPENDENTLY DIAGNOSE, INITIATE, ALTER, OR TERMINATE HEALTH CARE TREATMENT WITHIN THE**

118 SCOPE OF THEIR LICENSE, AND INCLUDES ADVANCED PRACTICE REGISTERED NURSES (APRN) AND
119 PHYSICIAN ASSISTANTS.

120 3.16 ~~“Life-limiting illness” means a medical condition that, in the opinion of the medical specialist~~
121 ~~involved, has a prognosis of death that is highly probable before a child reaches adulthood at age~~
122 ~~19.~~

Commented [BM4]: We do not use this term in the chapter.
Propose to strike.

123 3.17 2.15 “Manager” or “administrator” means any person who ~~controls~~ **IS RESPONSIBLE FOR** and
124 supervises or offers or attempts to ~~OVERSEE~~ control and supervise the day-to-day operations of a
125 home care agency or home care placement ~~agency~~.

Commented [BM5]: Statutory definition with minor changes to
make clearer; confirm with BOH

126 3.18 2.16 “Nurse aide” means a nurse aide certified by the Colorado Department of Regulatory
127 Agencies (DORA) or a nurse aide who has completed the requisite training and is within four (4)
128 months of achieving certification.

129 3.19 2.17 “Owner” means a shareholder in a for-profit or nonprofit corporation, a partner in a
130 partnership or limited partnership, a member in a limited liability company, a sole proprietor, or a
131 person with a similar interest in an entity, who has at least a fifty-percent (50%) ownership
132 interest in the business entity.

133 3.20 2.18 “PACE home care services” means skilled home health services or personal care
134 services:

135 (A) Offered as part of a comprehensive set of medical and nonmedical benefits, including
136 primary care, day services, and interdisciplinary team care planning and management; by
137 PACE providers to an enrolled participant in the program of all-inclusive care for the
138 elderly established in ~~s~~Section 25.5-5-412, C.R.S.; and regulated by the Department of
139 Health Care Policy and Financing and the CMS; and

140 (B) Provided in the enrolled participant’s temporary or permanent place of residence.

141 3.21 2.19 “Parent home care ~~agency~~” means the agency that develops and maintains
142 administrative control of branch offices.

Commented [BM6]: Consistently use the term “parent agency”
so striking home care

143 3.22 2.20 “Personal care services” means assistance with activities of daily living, including but not
144 limited to: bathing, dressing, eating, transferring, walking or mobility, toileting, ~~and~~ continence
145 care. ~~It also includes~~ housekeeping, personal laundry, medication reminders, and companionship
146 services, furnished to a home care consumer in the home care consumer’s temporary or
147 permanent home or place of residence, and those normal daily routines that the home care
148 consumer could perform for ~~himself or herself~~ **THEMSELVES** were ~~he or she~~ **THEY** physically capable,
149 which are intended to enable that individual to remain safely and comfortably in the home care
150 consumer’s temporary or permanent home or place of residence.

151 2.21 “PERSONNEL” MEANS INDIVIDUALS EMPLOYED BY AND/OR PROVIDING SERVICES UNDER THE DIRECTION
152 OF THE HCA, INCLUDING BUT NOT LIMITED TO; MANAGERS, ADMINISTRATORS, STAFF, EMPLOYEES,
153 CONTRACTORS, STUDENTS, INTERNS, OR VOLUNTEERS.

154 2.22 “PLAN OF CARE” MEANS A PLAN DEVELOPED IN CONSULTATION WITH THE LICENSED INDEPENDENT
155 PRACTITIONER AND AGENCY STAFF THAT COVERS ALL PERTINENT DIAGNOSES, INCLUDING MENTAL
156 STATUS, TYPES OF SERVICES AND EQUIPMENT REQUIRED, FREQUENCY OF VISITS, PROGNOSIS,
157 REHABILITATION POTENTIAL, FUNCTIONAL LIMITATIONS, ACTIVITIES PERMITTED, INSTRUCTIONS FOR
158 TIMELY DISCHARGE OR REFERRAL, AND ANY OTHER APPROPRIATE ITEMS.

Commented [BM7]: Modified from Federal COP §484.18
Acceptance of patients, plan of care, and medical supervision.

- 159 ~~3-23~~**2.23** "Plan of correction" means a written plan prepared by the home care agency or home
 160 care placement agency and submitted to the ~~d~~Department for approval that specifies the
 161 measures the agency shall take to correct all cited deficiencies.
- 162 ~~3-24~~ "Primary agency" means the agency responsible for the consumer's direct care coordination
 163 when a secondary or subcontracted agency is also providing care and ~~services~~.
- 164 **2.24** "PSEUDO-PATIENT" MEANS A PERSON TRAINED TO PARTICIPATE IN A ROLE-PLAY SITUATION; OR A
 165 COMPUTER-BASED MANNEQUIN DEVICE. A PSEUDO-PATIENT MUST BE CAPABLE OF RESPONDING TO AND
 166 INTERACTING WITH THE NURSE AIDE; AND MUST DEMONSTRATE THE GENERAL CHARACTERISTICS OF THE
 167 PRIMARY CONSUMER POPULATION SERVED BY THE HCA IN KEY AREAS SUCH AS AGE, FRAILTY,
 168 FUNCTIONAL STATUS, AND COGNITIVE ~~STATUS~~.
- 169 ~~3-25~~**2.25** "Qualified Early Intervention Service Provider" has the same meaning set forth in
 170 ~~s~~Section 27-10.5-702, C.R.S.
- 171 ~~3-26~~**2.26** "Respite care" means services provided to a consumer who is unable to care for himself
 172 or herself ~~THEMSELVES~~ on a short term basis because of the absence or need for relief of those
 173 persons normally providing care.
- 174 ~~3-27~~**2.27** "Service Agency" means a service agency, as defined in ~~s~~Section 25.5-10-202, C.R.S.,
 175 that has received certification from the Department of Health Care Policy and Financing as a
 176 developmental disabilities service agency under rules promulgated by the medical service board
 177 and is providing services pursuant to the supported living services waiver or the children's
 178 extensive service support waiver or the home and community-based services waivers
 179 administered by the Department of Health ~~e~~Care Policy and Financing under Part 4 of Article 6 of
 180 Title 25.5, C.R.S.
- 181 ~~3-28~~**2.28** "Service note" means a written notation that is signed, with date and time, by ~~an~~
 182 employee ~~PERSONNEL~~ of the home care agency furnishing the non-medical services.
- 183 ~~3-29~~**2.29** "Skilled home health services" means health and medical services furnished in the
 184 consumer's temporary or permanent ~~HOME OR~~ place of residence that include; wound care
 185 services; use of medical supplies including drugs and biologicals prescribed by a physician; in-
 186 home infusion services; nursing services; ~~or~~ certified nurse aide services that require the
 187 supervision of a licensed or certified health care professional acting within the scope of his ~~or~~
 188 her ~~THEIR~~ license or certificate; occupational therapy; physical therapy; respiratory care services;
 189 dietetics and nutrition counseling services; medication administration; medical social services;
 190 and speech-language pathology services. "Skilled home health services" does not include the
 191 delivery of either durable medical equipment or medical supplies.
- 192 ~~3-30~~**2.30** "Subdivision" means a component of a multi-function health agency, such as the home
 193 care department of a hospital or the nursing division of a health department, which independently
 194 meets the licensure requirements for HCAs. A subdivision that has branch offices is considered a
 195 parent agency.
- 196 ~~3-34~~**2.31** "Summary report" means the compilation of the pertinent factors of a home care
 197 consumer's clinical notes that is submitted to the consumer's physician by the skilled home health
 198 care agency.
- 199 ~~3-32~~**2.32** "Supervision" means authoritative procedural guidance by a qualified person for the
 200 accomplishment of a function or activity.
- 201 ~~2-33~~**2.33** "WORKSTATION" MEANS A LOCATION SEPARATE FROM THE PARENT AGENCY THAT OPERATES SOLELY FOR
 202 THE CONVENIENCE OF DIRECT CARE STAFF. ANY ~~AGENCY~~ NON-MEDICAL, MEDICAL, STATE, OR FEDERALLY

Commented [BM8]: We struck where this is used. Suggest striking.

Commented [BM9]: From SOM; new term used in Skilled Care

Commented [BM10]: Definition modified from CDPHE's Workstation Request Form

203 CERTIFIED AGENCY, MAY ESTABLISH A WORKSTATION WITHIN THE AGENCY'S GEOGRAPHIC SERVICE AREA.
 204 THE SITE MAY PROVIDE A PLACE TO WORK SO THAT DIRECT CARE STAFF CAN DECREASE TRAVEL.
 205 CONSUMER CHARTS ARE NOT TO BE KEPT AT A WORKSTATION, BUT THE SITE MAY CONTAIN PHONES,
 206 FAXES, OFFICE SUPPLIES, WOUND CARE SUPPLIES, POLICIES, PROCEDURES, FORMS, ETC. THE
 207 WORKSTATION MAYSHALL NOT BE USED TO ACCEPT REFERRALS; CONDUCT MARKETING, ADMINISTRATIVE
 208 ACTIVITIES, OR PERSONNEL TRAINING; OR STORE CONSUMER RECORDS. THE WORKSTATION MAYSHALL
 209 NOT BE STAFFED TO SERVE THE PUBLIC AND SIGNAGE AT THE WORKSTATION SHALL OULB NOT BE POSTED
 210 TO INVITE THE PUBLIC INSIDE TO CONDUCT BUSINESS.

211 **PART**Section 43. PLACEMENT AGENCIES

212 43.1 Registration

213 (A) On or after June 1, 2015, it is unlawful for a person to conduct or maintain a home care
 214 placement agency unless the person has submitted a completed application for
 215 registration as a home care placement agency.

Commented [SA11]: Recommend striking as it's obsolete, and is covered under (B) below

216 (AB) On or after January 1, 2016, it is unlawful for a person to conduct or maintain a home
 217 care placement agency without a valid, current home care placement agency registration
 218 issued by the dDepartment.

219 (BC) As a condition of obtaining an initial or renewal home care placement agency registration,
 220 the placement agency shall:

221 (1) Submit, in the form and manner required by the dDepartment, proof that it has
 222 obtained and is maintaining general liability insurance coverage that covers the
 223 home care placement agency and the providers it refers to home care consumer
 224 clients in the amount specified in the registration procedure at section PART 43.8,
 225 and

Commented [BM12]: We state this in Part 3.8 Registration Procedure for HCPAs.

226 (2) Maintain proof that before referring a provider to a home care consumer client, it
 227 is providing that home care consumer client with a written disclosure in the form
 228 and manner prescribed by the dDepartment.

Commented [BM13]: Strike here and moved to Disclosures below 3.3(C)

229 (BD) A person who violates any part of this section is:

Commented [BM14]: Suggest striking as it is duplicative

230 (1) Guilty of a misdemeanor and, upon conviction thereof, shall be punished by a
 231 fine of not less than \$50, nor more than \$500; and

232 (2) May be subject to a civil penalty assessed by the dDepartment of up to \$10,000
 233 for each violation. The penalty shall be assessed, enforced, and collected in
 234 accordance with Article 4 of Title 24, C.R.S., and any penalties collected by the
 235 dDepartment shall be transferred to the state treasurer for deposit in the GENERAL
 236 FUND. home care agency cash fund created in section 25-27.5-105, C.R.S.

Commented [SA15]: See Section 25-27.5-103(2)(c)(II), C.R.S.

237 43.2 Criminal History Record Check

Commented [SA16]: This is all consistent with statutory requirements at 25-27.5-107, C.R.S.

238 (A) Effective June 1, 2015, tThe home care placement agency shall require any provider
 239 seeking placement to submit to a criminal history record check to ascertain whether the
 240 provider applying has been convicted of a felony or misdemeanor, which felony or
 241 misdemeanor involves conduct that the agency determines could pose a risk to the
 242 health, safety, or welfare of home care consumers.

- 243 (B) The criminal history record check shall, at a minimum, include a search of criminal history
 244 in the State of Colorado and be conducted not more than **NINETY (90)** days prior to
 245 placement of the provider.
- 246 (C) The cost of such inquiry shall be paid by either the home care placement agency or the
 247 individual seeking placement.
- 248 (D) In assessing whether to refer a provider with a felony or misdemeanor conviction, the
 249 home care placement agency shall consider the following factors:
- 250 (1) The history of convictions; **OR** pleas of guilty or no contest;
- 251 (2) The nature and seriousness of the crimes;
- 252 (3) The time that has elapsed since the conviction(s);
- 253 (4) Whether there are any mitigating circumstances; and
- 254 (5) The nature of the position for which the provider would be referred.
- 255 (E) The home care placement agency shall develop and implement policies and procedures
 256 regarding the referral of any provider who is convicted of a felony or misdemeanor to
 257 ensure that the provider being referred does not pose a risk to the health, safety, and
 258 welfare of the home care consumer-client.

259 **43.3** Disclosures

- 260 (A) The **HOME CARE** placement agency shall provide a written disclosure notice to the home
 261 care consumer concerning the duties and employment status of the individual(s)
 262 providing services.
- 263 (B) The disclosure notice, in the form and manner prescribed by the **dDepartment**, shall be
 264 signed by the consumer or authorized representative before the start of services and
 265 shall include, at a minimum, the following information:
- 266 (1) That the home care placement agency is not the employer of any provider it
 267 refers to a home care consumer; and
- 268 (2) That the home care placement agency does not direct, control, schedule, or train
 269 any provider it refers.
- 270 (C) **THE HOME CARE PLACEMENT AGENCY SHALL MAINTAIN PROOF THAT DISCLOSURES ARE HAVE**
 271 **BEEN PROVIDED BEFORE REFERRING A PROVIDER TO A HOME CARE CONSUMER.**

Commented [BM17]: Not new language. Moved from above.

272 **43.4** Inspections

- 273 (A) The **dDepartment** may inspect, as it deems necessary, a home care placement agency's
 274 records on weekdays between 9 a.m. and 5 p.m. to ensure that the home care placement
 275 agency is in compliance with the criminal history record check, general liability insurance,
 276 and disclosure requirements.
- 277 (1) The home care placement agency shall retain its records for a period of seven
 278 (7) years and those records shall be readily available to the **dDepartment** during
 279 inspections.

280 (B) The dDepartment shall make inspections as it deems necessary to ensure that the
 281 health, safety, and welfare of a home care placement agency's home care consumers
 282 are being protected. Inspections of a home care consumer's home are subject to the
 283 consent of the consumer to access the property.

284 43.5 Plan of Correction

285 FOR PURPOSES OF THIS CHAPTER, A PLAN OF CORRECTION AGAINST A REGISTERED HOME CARE PLACEMENT
 286 AGENCY SHALL BE COMPLETED IN ACCORDANCE WITH 6 CCR 1011-1, CHAPTER 2, PART 2.10.4(B).

287 (A) A home care placement agency shall submit to the dDepartment a written plan of
 288 correction detailing measures that will be taken by the agency to correct deficiencies
 289 found as a result of inspections and shall be submitted in the form and manner required
 290 by the dDepartment.

291 (B) Plans of correction shall be:

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

294 (2) Signed by the agency manager.

295 (C) Corrective actions shall be implemented within 45 calendar days of the exit date or as
 296 determined by the dDepartment.

297 (D) The dDepartment has the discretion to approve, modify, or reject plans of correction.

298 (1) If the plan of correction is acceptable, the dDepartment shall notify the agency.

299 (2) If the plan of correction is unacceptable, the dDepartment shall notify the agency
 300 in writing and the agency shall re-submit changes to the dDepartment within the
 301 time frame specified by the dDepartment.

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

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

309 43.6 Intermediate Restrictions or Conditions

310 (A) The dDepartment may impose intermediate restrictions or conditions on a HOME CARE
 311 placement agency that may include at least one of the following:

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

313 (2) Monitoring by the dDepartment for a specific period;

314 (3) Providing additional training to employees PERSONNEL, owners, or operators of the
 315 home care placement agency;

316 (4) Complying with a directed written plan to correct the violation; or

Commented [BM18]: Same language that we are proposing to strike in Department Oversight section - duplicative to Chapter 2.

- 317 (5) Paying a civil fine not to exceed \$10,000 per calendar year for all violations.
- 318 (B) If the dDepartment imposes an intermediate restriction or condition that is not the result
 319 of a serious and immediate threat to health, SAFETY, or welfare, the dDepartment shall
 320 provide the HOME CARE PLACEMENT agency with written notice of the restriction or
 321 condition. No later than ten (10) calendar days after receipt of the notice, the HOME CARE
 322 PLACEMENT agency shall submit a written plan that includes the time frame for completing
 323 the directed plan that addresses the restriction or condition specified.
- 324 (C) If the dDepartment imposes an intermediate restriction or condition that is the result of a
 325 serious and immediate threat to health, safety, or welfare, the dDepartment shall notify
 326 the HOME CARE PLACEMENT agency in writing, by telephone, or in person during an on-site
 327 visit.
- 328 (1) The HOME CARE PLACEMENT agency shall remedy the circumstances creating the
 329 harm or potential harm immediately upon receiving notice of the restriction or
 330 condition.
- 331 (2) If the dDepartment provides notice of a restriction or condition by telephone or in
 332 person, the dDepartment shall send written confirmation of the restriction or
 333 condition to the HOME CARE PLACEMENT agency within two (2) business days.
- 334 (D) After submission of an approved written plan, the HOME CARE PLACEMENT agency may
 335 appeal any intermediate restriction or condition to the dDepartment through an informal
 336 review process as specified by the dDepartment.
- 337 (E) If the dDepartment imposes an intermediate restriction or condition that requires payment
 338 of a civil fine, the HOME CARE PLACEMENT agency may request and the dDepartment shall
 339 grant a stay in payment of the fine until final disposition of the restriction or condition.
- 340 (F) If a HOME CARE placement agency is not satisfied with the result of the informal review or
 341 chooses not to seek informal review, no intermediate restriction or condition shall be
 342 imposed until after the opportunity for a hearing has been afforded the HOME CARE
 343 placement agency pursuant to Ssection 24-4-105, C.R.S.

344 43.7 Enforcement and Disciplinary Sanctions

- 345 (A) FOR PURPOSES OF THIS CHAPTER, ENFORCEMENT ACTIVITIES AGAINST A REGISTERED HOME
 346 CARE PLACEMENT AGENCY SHALL BE COMPLETED IN ACCORDANCE COMPLY WITH 6 CCR 1011-1,
 347 CHAPTER 2, PART 2.11.
- 348 ~~(A) The dDepartment may deny an application for an initial or renewal home care placement~~
 349 ~~agency registration that is not in compliance with the requirements of Ssection 25-27-5-~~
 350 ~~101, et seq., C.R.S. or these regulations. The dDepartment shall not issue a registration if~~
 351 ~~the owner, manager, or administrator of the home care placement agency has been~~
 352 ~~convicted of a felony or of a misdemeanor which felony or misdemeanor involves conduct~~
 353 ~~that the dDepartment determines could pose a risk to the health, safety, or welfare of the~~
 354 ~~home care consumers of the home care placement agency.~~
- 355 (1) If the dDepartment denies an application for an initial or renewal home care
 356 placement agency registration, the dDepartment shall notify the applicant in
 357 writing of such denial by mailing a notice to the applicant at the address shown
 358 on the application.

Commented [BM19]: This language refers back to Chapter 2, which covers all language below. Propose to strike below as it is duplicative to Chapter 2.

Commented [BM20]: Covered by 2.11.1

359 (2) Any applicant that believes it has been aggrieved by such denial may seek
 360 review of the decision if the applicant, within ~~SIXTY (60)~~ calendar days after
 361 receiving the written notice of denial, petitions the ~~d~~Department to set a hearing.

362 (3) All hearings on registration denials shall be conducted in accordance with the
 363 Colorado Administrative Procedure Act, section 24-4-101, et seq., C.R.S.

364 (B) The ~~d~~Department may revoke or suspend the registration of a home care placement
 365 agency that is out of compliance with the requirements of section 25-27.5-101, et seq.,
 366 C.R.S. or these regulations.

367 (1) Appeals of departmental revocations or suspensions shall be conducted in
 368 accordance with the Colorado Administrative Procedure Act, section 24-4-101, et
 369 seq., C.R.S.

370 (C) The ~~d~~Department may summarily suspend an agency's registration if it finds, after
 371 investigation, that the agency has engaged in a deliberate and willful violation of these
 372 regulations or that the public health, safety or welfare requires immediate action.

373 (1) If the ~~d~~Department summarily suspends an agency's registration, it shall provide
 374 the agency with a notice explaining the basis for the summary suspension. The
 375 notice shall also inform the agency of its right to appeal and that it is entitled to a
 376 prompt hearing on the matter.

377 (2) Appeals of summary suspensions shall be conducted in accordance with the
 378 Colorado Administrative Procedure Act, section 24-4-101, et seq., C.R.S.

379 (BD) If the ~~d~~Department suspends, revokes, or refuses to renew a home care placement
 380 agency registration, the home care placement agency shall be removed from the registry
 381 maintained by the ~~d~~Department pursuant to ~~S~~section 25-27.5-103(2)(a)(I), C.R.S.

382 43.8 Registration Procedure

383 (A) An applicant for an initial or renewal home care placement agency registration shall
 384 provide the ~~d~~Department with a complete application including all information and
 385 attachments specified in the application form and any additional information requested by
 386 the ~~d~~Department. Each application shall include, at a minimum, the following:

387 (1) A non-refundable annual registration fee of \$870. Registrations will be valid for
 388 one year from the date of issue.

389 (2) Evidence of general liability insurance coverage that covers the home care
 390 placement agency and the providers it refers to home care consumers. Such
 391 coverage shall be maintained for the duration of the license period. The minimum
 392 amount of coverage is \$100,000 per occurrence and \$300,000 aggregate.

393 (3) The legal name of the entity and all other names used by it to provide home care
 394 placement services. The applicant has a continuing duty to notify the
 395 ~~d~~Department of all name changes at least thirty (30) calendar days prior to the
 396 effective date of the change.

397 (4) Contact information for the entity including mailing address, telephone and
 398 facsimile numbers, e-mail address, and, if applicable, website address, **AS**
 399 **APPLICABLE.**

Commented [BM21]: Covered by APA and Chapter 2 reference to APA

Commented [BM22]: Covered by 2.11.2

Commented [BM23]: Covered by 2.11.3

- 400 (5) The identity of all persons and business entities with a controlling interest in the
 401 home care placement agency, including administrators, directors, and managers.
 402 A sole proprietor shall include ~~include~~ **PROVIDE** proof of lawful presence in the United
 403 States in compliance with ~~S~~section 24-76.5-103(4), C.R.S.
- 404 (B) With the submission of an application for registration or within ten (10) calendar days
 405 after a change in the owner, manager, or administrator, each owner, ~~of a home care~~
 406 ~~placement agency and each~~ manager, or administrator of a home care placement agency
 407 shall submit a complete set of his or her ~~THEIR~~ fingerprints to the Colorado Bureau of
 408 Investigation for the purpose of conducting a state and national fingerprint-based criminal
 409 history record check.
- 410 (1) Each owner, manager, or administrator is responsible for paying the fee
 411 established by the Colorado Bureau of Investigation for conducting the criminal
 412 history record check.
- 413 (2) If the owner, manager, or administrator of the home care placement agency has
 414 been convicted of a felony or of a misdemeanor which felony or misdemeanor
 415 involves conduct that the ~~D~~department determines could pose a risk to the
 416 health, safety, or welfare of the home care placement agency's consumers, the
 417 ~~D~~department will not approve the application for registration.

418 ~~PART~~Section 54. DEPARTMENT OVERSIGHT

419 54.1 License ~~e~~Classification

- 420 (A) ~~An home care agency~~ **HCA** shall be issued a license consistent with the type and extent
 421 of services provided. **UNLESS OTHERWISE SPECIFIED, EACH LICENSED HCA SHALL MEET THE**
 422 **REQUIREMENTS IN PART 5 OF THIS CHAPTER AS WELL AS PARTS 6 AND/OR 7 DEPENDING UPON**
 423 **THE SERVICES PROVIDED.**
- 424 (1) ~~Unless otherwise specified, each licensed home care agency~~ **HCA shall meet the**
 425 **requirements in ~~PART~~section 65 of this chapter as well as ~~PART~~sections 67**
 426 **and/or 78 depending upon the services provided.**
- 427 (1) Class A – a home care agency that provides any skilled healthcare service.
 428 Agencies with a Class A license may also provide personal care services.
- 429 (2) Class B – a home care agency that provides only personal care services. An
 430 agency with a Class B license shall not provide any skilled healthcare service.
- 431 (B) An ~~agency~~ **HCA** providing home care services that are regulated by the Colorado
 432 Department of Health Care Policy and Financing (HCPF), excluding certified agencies
 433 defined in ~~PART~~section 32.4 of this chapter, shall be licensed as a Class B agency unless
 434 otherwise specified below.
- 435 (1) Any ~~agency~~ **HCA** providing services regulated by HCPF or the Department of
 436 ~~Human Services~~ that also provides skilled care or services delivered by a
 437 licensed professional shall be licensed as a Class A ~~agency~~ **HCA**.
- 438 (a) In reviewing compliance with the requirements of this chapter by the
 439 Program of All-Inclusive Care for the Elderly (PACE) established in
 440 Section 25.5-5-412, C.R.S., the ~~D~~department shall coordinate with HCPF
 441 in regulatory interpretation of both license and certification requirements
 442 to ensure the intent of similar regulations is congruently met.

Commented [BM24]: Moved this language to simplify; not new language

443 (b) Any agency~~HCA~~ participating in the In-Home Support Service program;
 444 ~~the Supported Living Services program or the Children's Extensive~~
 445 ~~Support Services program~~ administered by HCPF, may be licensed as a
 446 Class A or B agency~~HCA~~ and shall comply with both HCPF's regulations
 447 concerning those programs and the applicable portions of this chapter.
 448 The Department shall coordinate with HCPF in regulatory interpretation
 449 of both license and certification requirements to ensure the intent of
 450 similar regulations is congruently met.

Commented [BM25]: Propose to strike SLS and CES based on conversation with HCPF

451 (2) ~~If an agency's governing body, after consultation with the advisory committee,~~
 452 ~~administrator, or agency manager, determines a home care regulation~~
 453 ~~substantially impedes its ability to provide appropriate and effective services to~~
 454 ~~the consumer or substantially impedes the appropriate and effective services of~~
 455 ~~the total program, the Ddepartment may approve an alternate plan as long as the~~
 456 ~~health, safety, welfare and rights of the consumer are assured.~~

Commented [BM26]: Cross reference to waiver process added at License Procedures, Part 4.2, below

457 (C) Residential facilities

458 (1) Any residential facility that delivers skilled home health or personal care services
 459 that the facility is not ~~OTHERWISE~~ licensed or certified to ~~otherwise~~ provide, shall
 460 either become licensed as a home care agency or require the skilled home
 461 health or personal care services to be delivered by a licensed home care agency.

462 (a) Consumer services shall be provided only upon individual service
 463 contracts. The resident or consumer requiring services not covered
 464 under the primary license shall be given the opportunity to contract with
 465 the home care agency of choice and shall not be restricted to the use of
 466 the residential facility home care agency.

467 (b) A residential facility may not contract for nor provide skilled home health
 468 or personal care services on a facility-wide basis under this license. Each
 469 residential facility providing facility-wide services shall be licensed
 470 according to the appropriate provider type.

471 (c) The home care records shall be easily identifiable and separated in the
 472 consumer record from the residential care records.

473 (2) The requirements contained in ~~PARTS~~sections 65 through 87 of this chapter shall
 474 apply only to processes, policies, and procedures that address those consumers
 475 receiving skilled home health or personal care services in their temporary or
 476 permanent ~~HOME OR~~ place of residence.

477 (a) The requirements apply to all residential facilities providing skilled home
 478 health services not covered under the primary residential care license or
 479 certification.

480 (b) The requirements for governing body, professional advisory committee,
 481 complaints, occurrences, and quality assurance activities may be met, in
 482 whole or in part, in conjunction with like activities of the primary license.
 483 However, there shall be documented oversight of the home care portion
 484 of the services provided distinct from that of the primary license.

485 (D) ~~Services provided to the developmentally disabled~~

- 486 (1) On or after September 1, 2011, a community centered board that is directly
 487 providing home care services shall be licensed as either a Class A or B home
 488 care agency HCA depending on the services being provided.
- 489 (2) On or after September 1, 2011, a service agency that IS CERTIFIED BY HCPF has
 490 received program approval from the Department of Human Services (DHS) as a
 491 developmental disabilities service agency under rules promulgated by DHS that
 492 is providing services pursuant to the supported living services waiver or the
 493 children's extensive support waiver shall be licensed as either a Class A or B
 494 home care agency HCA depending on the services being provided.
- 495 (3D) Pursuant to Section 25.5-10-202(2) 27-10.5-109(2), C.R.S., Independent Residential
 496 Support Services provided by the Colorado Department of Human Services (DHS) do not
 497 require licensure by the Department.
- 498 (4E) Nothing in this section relieves an entity that contracts or arranges with a community
 499 centered board or service agency, and that meets the definition of a "home care agency"
 500 under section 25-17.5-102, C.R.S., SECTION 25-27.5-102, C.R.S., from the entity's
 501 obligation to apply for, and operate under, a license in accordance with these regulations.

Commented [BM27]: Propose to strike all of (D)(1) and (2) based on conversation with HCPF

Commented [BM28]: Move (3) and (4) out to new (D) and (E)

Commented [SA29]: Corrected an incorrect statutory reference

502 54.2 License Procedure

- 503 (A) The HCA shall comply with the requirements of 6 CCR 1011-1, Chapter 2, regarding
 504 license application procedures, the process for change of ownership, and the continuing
 505 obligations of a licensee.
- 506 (B) When submitting an application for an initial or renewal license, the HCA shall include
 507 evidence of either liability insurance coverage or a surety bond in lieu of liability insurance
 508 coverage. Such coverage shall be maintained for the duration of the license period. The
 509 minimum amount of coverage is:
- 510 (1) Class A – \$500,000 per occurrence and \$3,000,000 aggregate.
- 511 (2) Class B – \$100,000 per occurrence and \$300,000 aggregate.
- 512 (C) The agency shall submit to the Department a list of the contiguous counties that it plans
 513 to serve, and assure adequate staffing, supervision, consumer care, and services are
 514 provided within the declared geographical area.
- 515 (D) With the submission of an application for licensure or within ten (10) calendar days after a
 516 change in the owner, manager, or administrator, each owner and each manager or
 517 administrator of a home care agency shall submit a complete set of his or her THEIR
 518 fingerprints to the Colorado Bureau of Investigation for the purpose of conducting a state
 519 and national fingerprint-based criminal history record check. Each owner, manager, or
 520 administrator is responsible for paying the fee established by the Colorado Bureau of
 521 Investigation for conducting the criminal history record check.
- 522 (1) THE DEPARTMENT MAY ACQUIRE A NAME-BASED CRIMINAL HISTORY RECORD CHECK
 523 FOR AN APPLICANT WHO HAS TWICE SUBMITTED TO A FINGER-PRINT BASED CRIMINAL
 524 HISTORY RECORD CHECK AND WHOSE FINGERPRINTS ARE UNCLASSIFIABLE.
- 525 (2) WHEN THE RESULTS OF A FINGER-PRINT BASED CRIMINAL HISTORY RECORD CHECK OF
 526 AN APPLICANT REVEAL A RECORD OF ARREST WITHOUT A DISPOSITION, THE
 527 DEPARTMENT SHALL REQUIRE THAT PERSON TO SUBMIT TO A NAME-BASED CRIMINAL
 528 HISTORY RECORD CHECK.

Commented [SA30]: (D)(1)-(3) all come directly from statute at 25-27.5-106(3), and (4)

529 (1)(3) No license shall be issued or renewed by the Ddepartment if the owner,
 530 applicant, or licensee of the home care agency has been convicted of a felony or
 531 of a misdemeanor, which felony or misdemeanor involves ~~CONSTITUTES A CRIME~~
 532 ~~or moral turpitude~~ or involves conduct that the Ddepartment determines could
 533 pose a risk to the health, safety, or welfare of HCA consumers.

Commented [BM31]: Updated to reflect current statutory language

534 (2)(4) Each HCA owner, applicant, or licensee is under an affirmative obligation to
 535 inform the Ddepartment if he or she is ~~THEY ARE~~ convicted of a felony or of a
 536 misdemeanor that involves moral turpitude or conduct that the Ddepartment
 537 determines could pose a risk to the health, safety, or welfare of HCA consumers.
 538 Failure to advise the Ddepartment of a conviction may result in non-renewal, or
 539 other appropriate sanctions, as set forth in ~~PARTS~~sections 54.7, ~~AND 54.8 and 5.9~~
 540 of this chapter.

541 ~~(E) Except as otherwise specified herein, the Ddepartment shall issue or renew a license~~
 542 ~~when it is satisfied that the applicant or licensee is in compliance with these rules. A~~
 543 ~~license issued or renewed pursuant to this ~~PART~~section 5.2 shall expire one (1) year after~~
 544 ~~the date of issuance or renewal.~~

Commented [BM32]: Duplicative of Chapter 2; suggest striking

545 (FE) No license shall be transferred from one location to another without prior notice to the
 546 Ddepartment as provided in this subsection. If an agency is considering moving or
 547 changing the licensed physical address, the agency shall notify the Ddepartment ~~THIRTY~~
 548 ~~(30)~~ days prior to the intended relocation.

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

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

554 (F) ~~AN HCA SHALL NOTIFY THE DEPARTMENT THIRTY (30) DAYS PRIOR TO MAKING ANY CHANGES TO~~
 555 ~~THE BRANCH OFFICE PHYSICAL ADDRESS OR ORGANIZATION.~~

556 (G) ~~AN HCA SEEKING A WAIVER OF THESE REGULATIONS, OR ANY OTHER DEPARTMENT~~
 557 ~~REGULATIONS, SHALL COMPLY WITH THE REQUIREMENTS OF 6 CCR 1011-1, CHAPTER 2, PART~~
 558 ~~5.~~

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

561 ~~(H) If the Ddepartment denies an application for an HCA initial or renewal license, the~~
 562 ~~Ddepartment shall notify the applicant in writing of such denial by mailing a notice to the~~
 563 ~~applicant at the address shown on the application.~~

564 ~~(I) Any applicant believing himself or herself aggrieved by such denial may seek review of~~
 565 ~~the decision if the applicant, within 60 days after receiving the written notice of denial,~~
 566 ~~petitions the Ddepartment to set a hearing.~~

567 ~~(J) All hearings on license denials shall be conducted in accordance with the state~~
 568 ~~Administrative Procedure Act, Section 24-4-101, et seq., C.R.S.~~

Commented [BM33]: Duplicative of Chapter 2; suggest striking

569 54.3 Provisional ~~I~~Licenses

Cross reference to Denials portion of Chapter 2 is added at Part 4.8 below.

570 (A) ~~The Ddepartment may issue a provisional license to any applicant for the purpose of~~
 571 ~~operating a home care agency for a period of 90 days if the applicant is temporarily~~
 572 ~~unable to conform to all of the minimum standards required by this chapter, except that~~
 573 ~~no license shall be issued to an applicant if the operation of the applicant's home care~~
 574 ~~agency will adversely affect the health, safety, or welfare of the home care consumers of~~
 575 ~~such home care agency.~~

Commented [BM34]: Duplicative of Chapter 2; suggest striking

576 (A) THE HCA SHALL COMPLY WITH THE REQUIREMENTS OF 6 CCR 1011-1, CHAPTER 2, PART 2.4
 577 REGARDING PROVISIONAL LICENSES, WITH THE FOLLOWING ADDITIONS:

578 (1B) If requested by HCPF the Colorado Department of Health Care Policy and
 579 Financing, the Ddepartment may issue a provisional license for a period of
 580 NINETY (90) days to an agency that has applied to be a certified home care
 581 agency as defined herein.

582 (C) ~~As a condition of obtaining a provisional license, the applicant shall show proof to the~~
 583 ~~Ddepartment that attempts are being made to conform and comply with applicable~~
 584 ~~standards.~~

Commented [BM35]: Duplicative of Chapter 2; suggest striking

585 (2D) No provisional license shall be granted before completion of a criminal
 586 background check and finding in accordance with PARTsection 54.2 of this
 587 chapter.

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

Commented [BM36]: Duplicative of Chapter 2; suggest striking

591 5.4.4 License fFees

592 (A) Unless otherwise specified in this chapter, all license fees paid to the Ddepartment shall
 593 be deemed non-refundable.

594 (B) The appropriate fee total shall accompany an HCAagency's initial or renewal license
 595 application. The fee total shall include any applicable branch and workstation fees as set
 596 forth in this section.

597 5.4.4.1 (C) Initial licensure

598 (A1) Each HCA LICENSE applicant for a home care agency license shall specify the
 599 type and extent of services to be provided and request the appropriate license
 600 category based upon the criteria set forth in sectionPART 54.1 of this chapter.
 601 The initial license fee shall be:

602 (A) Class A - \$3,000

603 (B) Class B - \$2,200

604 (B2) Any currently licensed Class B agencyHCA that desires to change its license
 605 category to a Class A agencyHCA shall submit an initial license application and
 606 initial license fee for a Class A license.

607 5.4.2 (D) Provisional licensure

- 608 (A1) Any agencyHCA approved by the Ddepartment for a provisional license, shall
609 submit a fee equal to FIFTEEN PERCENT (15%) percent of the applicable initial
610 license fee for each provisional license term.
- 611 (B2) The appropriate fee shall be submitted before issuance of the provisional license.
- 612 (C3) If the Ddepartment finds reasonable compliance by an applicant holding a
613 provisional license, it shall issue an initial license upon receipt of the license
614 application and total fee FOR INITIAL LICENSURE AND ANY ADDITIONAL APPROPRIATE
615 FEES SPECIFIED IN PART 4.4 specified in sections 5.4 and 5.4.1 of this chapter.
- 616 5.4.3 (E) Renewal licensure
- 617 (A1) Base Fee. There shall be a base fee that is determined by the license category
618 as defined in sectionPART 5.4.1 of this Cchapter. The renewal license base fee
619 shall be:
- 620 (A) Class A - \$1,550
- 621 (B) Class B - \$1,325
- 622 (B2) Additional volume fee. Each agencyHCA shall report its annual admissions for
623 the previous year on its license renewal application. If the number of annual
624 admissions is FIFTY (50) or more, the agencyHCA shall add the following amount
625 to its base fee:
- 626 (A) 50 to 99 admissions - \$100
- 627 (B) 100 or more admissions - \$200
- 628 (C3) Medicare or Medicaid service discount. Each agencyHCA that is currently
629 certified to provide Medicaid or Medicare services shall deduct \$100 from its
630 base fee.
- 631 (D4) Deeming discount. For licenses that expire on or after September 1, 2014, a
632 license applicant that is accredited by an accrediting organization recognized by
633 the Centers for Medicare and Medicaid Services-CMS as having deeming
634 authority may be eligible for a TEN PERCENT (10%) percent discount off the base
635 renewal license fee. In order to be eligible for this discount, the license applicant
636 shall SUBMIT authorize its accrediting organization to submit directly to the
637 Department copies of ITS MOST RECENT RECERTIFICATION all survey(s), and ANY
638 plan(s) of correction for the previous license year, along with the most recent
639 letter of accreditation showing the license applicant has full accreditation status IN
640 ADDITION TO A COMPLETED RENEWAL APPLICATION.
- 641 5.4.4 (F) Branch and workstation fees
- 642 (A1) In addition to any other licensure fees, the following fees shall apply to the
643 circumstances described. The fees shall be submitted with the license application
644 or as otherwise specified.
- 645 (1A) An HCA shall submit a \$200 fee for each branch office as defined in
646 sectionPART 3.22.2 of this chapter.

Commented [BM37]: Updated language to make more clear; confirmed with CLR that this works.

Commented [BM38]: Modified deeming discount to match the updates we made in Chapter 4, Hospitals

- 647 (a) For existing branches, the fee shall be submitted with the license
648 application.
- 649 (b) For new branches, the fee shall accompany the notice of the
650 agency's intent to open a branch office pursuant to
651 section 65.2 of this chapter.
- 652 (2B) An HCA that operates one or more satellite-work stations solely for the
653 convenience of direct care staff shall pay a fee of \$50 per workstation.
- 654 5.4.5 (G) Revisit fee
- 655 (A1) An agency's annual license fee may be increased as the result of a
656 licensure inspection or substantiated complaint investigation where a deficient
657 practice is cited that has either caused harm or has the potential to cause harm
658 to a consumer and which the agency has failed to demonstrate appropriate
659 correction of the cited deficiencies at the first on-site revisit.
- 660 (B2) The fee shall be ONE HUNDRED PERCENT (100%) percent of the agency's
661 initial or renewal license fee and shall be assessed for the second on-site
662 inspection and each subsequent on-site inspection pertaining to the same
663 deficiency.
- 664 5.4.6 (H) Change of ownership fee
- 665 (A1) Any agency meeting the criteria set forth in 6 CCR 1011-1, Chapter 2, Part
666 2.6 shall pay a change of ownership fee. The fee shall be determined according
667 to the license classifications set forth in section 5.1 of this chapter and
668 submitted with the change of ownership notice. The fee shall be:
- 669 (A) Class A - \$3,000
- 670 (B) Class B - \$2,200
- 671 5.4.7 (I) Change of name and change of address fees
- 672 (A1) A licensed HCA shall conform with the notification requirements of 6 CCR 1011-
673 1, Chapter 2, Part 2.9.6 regarding any change in the agency name or
674 business address.
- 675 (B2) A fee of \$75 shall accompany each notice of a change in agency name or
676 business address.
- 677 5.4.5 Inspections
- 678 (A) THE HCA SHALL COMPLY WITH THE REQUIREMENTS OF 6 CCR 1011-1, CHAPTER 2, PARTS
679 2.9.4, 2.10.1, AND 2.10.2 REGARDING INSPECTIONS, WITH THE FOLLOWING ADDITIONS:
- 680 (A) A certified home care agency that applies for a license by June 1, 2009, shall be exempt
681 from licensure inspection prior to issuance of the initial license.
- 682 (B) The Department shall investigate and review each initial and renewal license application
683 in order to determine an applicant's compliance with this chapter. This determination shall
684 be based on one or more of the following:

Commented [BM39]: Deadline for implementation has passed.
Striking as obsolete.

Commented [BM40]: Covered by Chapter 2; suggest striking

- 685 (1) ~~An on-site investigation of the agency;~~
- 686 (2) ~~A review of the application and associated documents;~~
- 687 (3) ~~A review of the agency's compliance history, including the results of complaint~~
688 ~~investigations;~~
- 689 (4) ~~A review of occurrence reports;~~
- 690 (5) ~~A review of material provided by the agency pursuant to a Ddepartment request;~~
- 691 (6) ~~Interviews of agency staff and/or consumers;~~
- 692 (7) ~~A review of information available from national accreditation organizations, CMS,~~
693 ~~HCPF; and~~
- 694 (8) ~~Any other information the Ddepartment determines is appropriate to ascertain~~
695 ~~such compliance.~~
- 696 (G1) The Ddepartment shall make such inspections as it deems necessary to ensure
697 that the health, safety, and welfare of home care consumers are being protected.
698 In addition to licensure inspections, the Ddepartment may conduct supplemental
699 inspections at any time in response to complaints alleging noncompliance with
700 the regulations contained in this chapter.
- 701 (A4) Consumer records kept in the home or individual consumer documents
702 not included in the HCA's permanent record shall be made available to
703 the Ddepartment within two (2) hours of request if the last visit occurred
704 **FOURTEEN (14)** or more days prior to the request. The time for production
705 may be extended at the Ddepartment's discretion.
- 706 (B2) The consumer file and administrative records, including, but not limited
707 to, census and demographic information, complaint and incident reports,
708 meeting minutes, quality assurance, and annual program review
709 documents shall be provided to the inspector commencing within **THIRTY**
710 **(30)** minutes of request. The time for production may be extended at the
711 Ddepartment's discretion.
- 712 (D2) Inspections shall not be conducted in a home care consumer's home without the
713 consumer's consent.
- 714 (E) ~~The HCA shall provide accurate and truthful information to the Ddepartment during~~
715 ~~inspections, investigations, and licensing activities. Failure to provide information~~
716 ~~requested by the Ddepartment and known to the agency shall be grounds for action~~
717 ~~against a license.~~
- 718 **54.6 Plan of eCorrection**
- 719 **THE HCA SHALL COMPLY WITH THE REQUIREMENTS OF 6 CCR 1011-1, CHAPTER 2, PART 2.10.4(B) REGARDING**
720 **A PLAN OF CORRECTION.**
- 721 ~~(A) An HCA shall submit to the Ddepartment a written plan of correction detailing measures~~
722 ~~that will be taken by the agency to correct deficiencies found as a result of inspections~~
723 ~~and shall be submitted in the form and manner required by the Ddepartment.~~

Commented [BM41]: Duplicative to Chapter 2; suggest striking

- 724 (B) Plans of correction shall be:
- 725 (1) Submitted within ten (10) calendar days after the date of the Ddepartment's
726 written notice of deficiencies, and
- 727 (2) Signed by the agency administrator.
- 728 (C) Corrective actions shall be implemented within 45 days of the exit date or as determined
729 by the Ddepartment.
- 730 (D) The Ddepartment has the discretion to approve, modify or reject plans of correction.
- 731 (1) If the plan of correction is acceptable, the Ddepartment shall notify the agency.
- 732 (2) If the plan of correction is unacceptable, the Ddepartment shall notify the agency
733 in writing and the agency shall re-submit changes to the department within the
734 time frame specified by the Ddepartment.
- 735 (3) If the agency fails to comply with the requirements or deadlines for submission of
736 a plan or fails to submit requested changes to the plan, the Ddepartment may
737 reject the plan of correction and impose intermediate restrictions or other
738 disciplinary sanctions as set forth below.
- 739 (4) If the agency fails to timely implement the actions agreed to in the plan of
740 correction, the Ddepartment may impose intermediate restrictions or other
741 disciplinary sanctions as set forth below.

742 54.7 Intermediate rRestrictions or eConditions

- 743 (A) The Ddepartment may impose intermediate restrictions or conditions on a license, that
744 WHICH may include at least one of the following:
- 745 (1) Retaining a consultant to address corrective measures;
- 746 (2) Monitoring by the Ddepartment for a specific period;
- 747 (3) Providing additional training to employeesPERSONNEL, owners, or operators of the
748 home care agency;
- 749 (4) Complying with a directed written plan to correct the violation; or
- 750 (5) Paying a civil fine not to exceed \$10,000 per calendar year for all violations.
- 751 (B) If the Ddepartment imposes an intermediate restriction or condition that is not the result
752 of a serious and immediate threat to health or welfare, the Ddepartment shall provide the
753 agency with written notice of the restriction or condition. No later than ten (10) days after
754 receipt of the notice, the agency shall submit a written plan that includes the time frame
755 for completing the directed plan that addresses the restriction or condition specified.
- 756 (C) If the Ddepartment imposes an intermediate restriction or condition that is the result of a
757 serious and immediate threat to health, safety, or welfare, the Ddepartment shall notify
758 the agency in writing, by telephone, or in person during an on-site visit.
- 759 (1) The agency shall remedy the circumstances creating the harm or potential harm
760 immediately upon receiving notice of the restriction or condition.

Commented [BM42]: Covered under Chapter 2; suggest striking

- 761 (2) If the Ddepartment provides notice of a restriction or condition by telephone or in
762 person, the Ddepartment shall send written confirmation of the restriction or
763 condition to the agency within two (2) business days.
- 764 (D) After submission of an approved written plan, the agency may appeal any intermediate
765 restriction or condition to the Ddepartment through an informal review process as
766 specified by the Ddepartment.
- 767 (E) If the Ddepartment imposes an intermediate restriction or condition that requires payment
768 of a civil fine, the agency may request, and the Ddepartment shall grant, a stay in
769 payment of the fine until final disposition of the restriction or condition.
- 770 (F) If an agency is not satisfied with the result of the informal review, or chooses not to seek
771 informal review, no intermediate restriction or condition shall be imposed until after the
772 opportunity for a hearing has been afforded the licensee pursuant to Section 24-4-105,
773 C.R.S.

774 4.8 ENFORCEMENT AND DISCIPLINARY SANCTIONS

775 THE PROVISIONS OF 6 CCR 1011-1, CHAPTER 2, PART 2.11, REGARDING ENFORCEMENT AND DISCIPLINARY
776 SANCTIONS, SHALL APPLY TO ALL HCAS AND HOME CARE PLACEMENT AGENCIES.

777 5.8 Revocation or suspension

- 778 (A) The department may revoke or suspend the license of a home care agency that is out of
779 compliance with the requirements of Section 25-27.5-101, et seq., C.R.S. or these rules.
- 780 (B) The department shall revoke or suspend the license of a home care agency where the
781 owner or licensee has been convicted of a felony or misdemeanor involving moral
782 turpitude or conduct that the department determines could pose a risk to the health,
783 safety or welfare of the consumer of such agency.
- 784 (C) Appeals of departmental revocations or suspensions shall be conducted in accordance
785 with the state Administrative Procedure Act, Section 24-4-101, et seq., C.R.S.

786 5.9 Summary suspension

- 787 (A) The department may summarily suspend an agency's license if it finds, after
788 investigation, that an agency has engaged in a deliberate and willful violation of these
789 regulations or that the public health, safety, or welfare requires immediate action.
- 790 (B) If the department summarily suspends an agency's license, it shall provide the agency
791 with a notice explaining the basis for the summary suspension. The notice shall also
792 inform the agency of its right to appeal and that it is entitled to a prompt hearing on the
793 matter.
- 794 (C) Appeals of summary suspensions shall be conducted in accordance with the state
795 Administrative Procedure Act, Section 24-4-101, et seq., C.R.S.

796 5.10.9 Civil Fines

- 797 (A) If the Ddepartment assesses a civil fine pursuant to PART section 54.7 of this chapter, the money
798 received by the Ddepartment shall be transmitted to the state treasurer, who shall credit the same to the
799 GENERAL FUND home care agency cash fund created in Section 25-27.5-105, C.R.S.

Commented [BM43]: Suggest striking 5.8 and 5.9 and replacing with 4.8 Chapter 2 reference

Commented [BM44]: Covered at Chapter 2, Part 2.11.2

Commented [BM45]: Covered at Chapter 2, Part 2.11.3

Commented [BM46]: Statutory language

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

801 ~~(1) Continuing monitoring required by this section;~~

802 ~~(2) Education for agencies to avoid restrictions or conditions or facilitate the~~
803 ~~processes for application or change of ownership;~~

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

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

808 ~~(5) Monitoring and assisting in the transition of consumers to other agencies, when~~
809 ~~the transition is the result of the revocation of a license, or other appropriate~~
810 ~~medical services; or~~

811 ~~(6) Maintaining the operation of an agency pending correction of violations, as~~
812 ~~determined necessary by the department.~~

813 **PART Section 65. GENERAL REQUIREMENTS FOR ALL LICENSE CATEGORIES**

814 **65.1 Out of State Entities**

815 Every HCA providing services within the state, shall have a physical business office capable of
816 conducting day-to-day business as an home care agency HCA within Colorado, and shall be licensed
817 according to the services rendered.

818 **65.2 Branch Offices**

819 (A) An HCA shall notify the Department in advance of its plan to establish a branch office.
820 Notification shall include, **AT A MINIMUM:**

821 (1) A description of the services to be provided;

822 (2) The geographic area to be served by the branch office **THAT IS WITHIN A PORTION**
823 **OF THE TOTAL GEOGRAPHIC AREA SERVED BY THE PARENT AGENCY;** and

824 (3) A description of how the parent agency will supervise the branch office **ON A DAILY**
825 **BASIS.**

826 (B) A branch office, as an extension of the parent AGENCY HCA, may not offer services that
827 are different than those offered by the parent AGENCY HCA.

828 (C) **THE LOCATION OF THE BRANCH, IN RELATION TO THE PARENT AGENCY, SHALL BE SUCH THAT THE**
829 **PARENT AGENCY IS ABLE TO ENSURE ADEQUATE SUPERVISION AT ALL TIMES.**

830 (1) **THE PARENT AGENCY SHALL BE PHYSICALLY LOCATED SO THAT SHARING OF**
831 **ADMINISTRATION, SUPERVISION, PERSONNEL, AND SERVICES WITH THE BRANCH CAN**
832 **OCCUR ON A DAILY BASIS, AND TO ENSURE THAT THE BRANCH OFFICE HAS BACK-UP**
833 **COVERAGE READY AND AVAILABLE TO SERVE ALL CONSUMERS WHEN THEY ARE**
834 **SCHEDULED TO RECEIVE SERVICES.**

Commented [BM47]: Statute was amended, and this information was removed from statute in 2019 as a result of SB19-146.

Commented [BM48]: Language from Ch 2 SOM "Branch offices"

Commented [BM49]: Language from Ch 2 SOM "Branch offices"

Commented [BM50]: (C) is not new language, moved from original (E) below. (C)(1) and (2) are new.

- 835 (2) IN THE EVENT THE BRANCH OFFICE IS UNABLE TO MEET THE CONSUMER'S NEEDS, THE
836 PARENT AGENCY SHALL ENSURE ALL CONSUMERS CONTINUE TO RECEIVE SERVICES
837 WHEN SCHEDULED, IN ACCORDANCE WITH THE CONSUMER'S CARE PLAN.
- 838 (GD) The parent agency administrator, manager, or supervisor shall conduct an on-site visit of
839 the branch office in accordance with agency policy.
- 840 (DE) One or more health professionals who possess the experience, education, and
841 qualifications to oversee all care and services provided by the branch shall be available
842 during all operating hours.
- 843 (1) If only personal care services are provided, an employee PERSONNEL that meets
844 the qualifications of A supervisor shall be available during all operating hours.
- 845 (E) ~~The location of the branch, in relation to the parent, shall be such that the parent is able~~
846 ~~to assure adequate supervision at all times.~~
- 847 (F) The branch office shall have a copy of all agency policies available and readily accessible
848 to staff.
- 849 (G) The PARENT agency shall ensure that consumer records are readily accessible to all staff
850 providing care and services.
- 851 (H) THE PARENT AGENCY SHALL BE AWARE OF THE STAFFING, CENSUS, AND ANY ISSUES/MATTERS
852 AFFECTING THE OPERATION OF THE BRANCH OFFICE AT ALL TIMES.
- 853 6.3 Criminal history record checks
- 854 (A) ~~Effective June 1, 2015, the HCA shall require any individual seeking employment with the~~
855 ~~agency to submit to a criminal history record check to ascertain whether the individual~~
856 ~~seeking employment has been convicted of a felony or misdemeanor, which felony or~~
857 ~~misdemeanor involves conduct that the agency determines could pose a risk to the~~
858 ~~health, safety, or welfare of home care consumers.~~
- 859 (B) ~~The criminal history record check shall, at a minimum, include a search of criminal history~~
860 ~~in the State of Colorado and be conducted not more than 90 days prior to employment of~~
861 ~~the individual.~~
- 862 (C) ~~The cost of such inquiry shall be paid by either the home care agency or the individual~~
863 ~~seeking employment.~~
- 864 (D) ~~In assessing whether to employ an applicant with a felony or misdemeanor conviction,~~
865 ~~the HCA shall consider the following factors:~~
- 866 (1) ~~The history of convictions, pleas of guilty or no contest,~~
- 867 (2) ~~The nature and seriousness of the crimes;~~
- 868 (3) ~~The time that has elapsed since the conviction(s);~~
- 869 (4) ~~Whether there are any mitigating circumstances; and~~
- 870 (5) ~~The nature of the position for which the applicant would be employed.~~

Commented [BM51]: Moved up to new (C).

Commented [BM52]: Language modified from Ch 2 SOM "2182.4B - SA Review of Request for Branch Determination"

Commented [BM53]: Moved to Personnel below and put comments in new language.

871 (E) — The HCA shall develop and implement policies and procedures regarding the
 872 employment of any individual who is convicted of a felony or misdemeanor to ensure that
 873 the individual does not pose a risk to the health, safety and welfare of the consumer.

874 6.45.3 Consumer Rights

875 (A) THE PROVISIONS OF 6 CCR 1011-1, CHAPTER 2, PART 7, SHALL APPLY, WITH THE FOLLOWING
 876 ADDITIONS:

877 (A1) Assurance of rights

878 (1A) The HCA shall establish and implement written policies and procedures
 879 regarding the rights of consumers and the implementation of these
 880 rights. A complete statement of these CONSUMER rights, including the right
 881 to file a complaint with the Department, shall be distributed to all
 882 employees and contracted personnel upon hire.

883 (2B) At a minimum, the HCA's policies and procedures shall specify that:

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

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

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

892 (B) Notice of rights

893 (1) Within one (1) business day of the start of services, the HCA shall
 894 provide the consumer or authorized representative with a notice of the
 895 consumer's rights in a manner that the consumer understands. The
 896 notice shall include information about the consumer's options if rights are
 897 violated, including how to contact an individual employed with the HCA
 898 who is responsible for the complaint intake and problem resolution
 899 process.

900 (G2) Exercise of rights and respect for property and person

901 (4A) The rights of the consumer may be exercised by the consumer or
 902 authorized representative without fear of retribution or retaliation.

903 (2B) The consumer has the right to have THEIR his or her person and property
 904 treated with respect. The consumer has the right to be free from neglect,
 905 financial exploitation, verbal, physical, and psychological abuse including
 906 humiliation, intimidation, or punishment.

907 (C) THE CONSUMER HAS THE RIGHT TO BE FREE FROM NEGLIGENCE; FINANCIAL
 908 EXPLOITATION; AND VERBAL, PHYSICAL, AND PSYCHOLOGICAL ABUSE,
 909 INCLUDING HUMILIATION, INTIMIDATION, OR PUNISHMENT.

Commented [BM54]: First sentence duplicative of Chapter 2, suggest striking. Keep second sentence.

Commented [BM55]: It is not 1 for 1 reference with Chapter 2, suggest keeping.

Commented [BM56]: Moved to Disclosure Notices - put all notices in one subpart.

Commented [BM57]: There is a lot of overlap with Ch 2 but it is not 1 for 1. Some of this is from the SOM.

Suggest keeping this as is.

Commented [BM58]: Not new language. Broken out from bullet above.

910 (3D) The consumer or authorized representative, upon request to the HCA,
 911 has the right to be informed of the full name, licensure status, staff
 912 position, and employer of all persons with whom the consumer has
 913 contact, and who is supplying, staffing, or supervising care or services.
 914 ~~The consumer has the right to be served by agency staff that is properly~~
 915 ~~trained and competent to perform their duties.~~

916 (E) ~~THE CONSUMER HAS THE RIGHT TO BE SERVED BY AGENCY STAFF WHO ARE~~
 917 ~~PROPERLY TRAINED AND COMPETENT TO PERFORM THEIR DUTIES.~~

Commented [BM59]: Not new language. Broken out from bullet above.

918 (4F) The consumer has the right to live free from involuntary confinement,
 919 and to be free from physical or chemical restraints as defined in 6 CCR
 920 1011-1, Chapter 2, Part 8.

921 (5G) The consumer or authorized representative has the right to express
 922 complaints verbally, or in writing, about services or care that ~~is~~**ARE** or
 923 ~~is~~**ARE** not furnished, or about the lack of respect for the consumer's
 924 person or property by anyone who is furnishing services on behalf of the
 925 HCA.

926 (6H) ~~The consumer shall have~~**HAS** the right to confidentiality of all records,
 927 communications, and personal information. ~~The HCA shall advise the~~
 928 ~~consumer of the agency's policies and procedures regarding disclosure~~
 929 ~~of clinical information and records.~~

930 (I) ~~THE HCA SHALL ADVISE THE CONSUMER OF THE AGENCY'S POLICIES AND~~
 931 ~~PROCEDURES REGARDING DISCLOSURE OF CLINICAL INFORMATION AND~~
 932 ~~RECORDS.~~

Commented [BM60]: Moved this out a heading level since the request for hearing

Commented [BM61]: Not new language. Broken out from bullet above.

933 (D3) Right to be informed and to participate in planning care and **services**

Commented [BM62]: More specific than Ch 2; suggest keeping

934 (1A) The HCA shall inform the consumer or authorized representative, in
 935 advance, about the care, ~~METHOD OF DELIVERY~~, and services to be
 936 furnished, and of any changes in the care, ~~METHOD OF DELIVERY~~, and
 937 services to be furnished, to enable the consumer to give informed
 938 consent.

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

943 (bii) The consumer has the right to be told, in advance of receiving
 944 care, about the services that will be provided, the disciplines that
 945 will be utilized to furnish care, the frequency of visits proposed to
 946 be furnished, ~~THE METHOD OF DELIVERY OF SERVICES AND ANY~~
 947 ~~CHANGES IN THE METHOD OF DELIVERY OF SERVICES~~, and the
 948 consequences of refusing care or services.

949 (iii) ~~THE CONSUMER HAS THE RIGHT TO REFUSE TO CHANGE FROM AN IN-~~
 950 ~~PERSON METHOD OF DELIVERY OF SERVICES TO A TELEHEALTH~~
 951 ~~METHOD OF DELIVERY. IF THE CONSUMER REFUSES TELEHEALTH,~~
 952 ~~THEIR SERVICES SHALL CONTINUE IN PERSON.~~

953 (2B) The HCA shall offer the consumer, or authorized representative, the right
 954 to participate in developing the plan of care, and receive instruction and
 955 education regarding the plan.

956 (a) The HCA shall advise the consumer, in advance, of the right to
 957 participate in planning the care or treatment, and in planning
 958 changes in the care or treatment.

959 (b) ~~Within one (1) business day of the start of services, the HCA~~
 960 ~~shall inform the consumer concerning the agency's policies on~~
 961 ~~advance directives, including a description of applicable state~~
 962 ~~law. The HCA may furnish advance directives information to a~~
 963 ~~consumer at the time of the first home visit, as long as the~~
 964 ~~information is furnished before care is provided.~~

965 (E) ~~The consumer or authorized representative has the right to be advised orally and~~
 966 ~~in writing within one (1) business day of the start of services of the extent to~~
 967 ~~which payment for the HCA services may be expected from insurance or other~~
 968 ~~sources, and the extent to which payment may be required from the consumer.~~

969 (4) THE CONSUMER HAS THE RIGHT TO RECEIVE PROMPT CARE IN ACCORDANCE WITH THE
 970 CARE PLAN.

971 (F5) The consumer or authorized representative has the right to be advised of any
 972 changes in billing or payment procedures before implementation.

973 (4A) If an agency HCA is implementing a scheduled rate increase to all
 974 ~~clients~~ CONSUMERS, the agency HCA shall provide a written notice to each
 975 affected consumer at least THIRTY (30) days before implementation.

976 (2B) The HCA shall advise the consumer of any individual changes, orally and
 977 in writing, as soon as possible, but no later than five (5) business days
 978 from the date that the HCA becomes aware of a change.

979 (3C) An HCA shall not assume power of attorney or guardianship over a
 980 consumer utilizing the services of the HCA, require a consumer to
 981 endorse checks over to the HCA, or require a consumer to execute or
 982 assign a loan, advance, financial interest, mortgage, or other property in
 983 exchange for future services.

984 (G6) The consumer or authorized representative has the right to be advised of the
 985 availability of the state's toll-free HCA hotline. ~~When the agency accepts the~~
 986 ~~consumer for treatment or care, the HCA shall advise the consumer in writing of~~
 987 ~~the telephone number of the home health hotline established by the state, the~~
 988 ~~hours of its operation, and that the purpose of the hotline is to receive complaints~~
 989 ~~or questions about local HCAs. The consumer also has the right to use this~~
 990 ~~hotline to lodge complaints regarding care received or not received including~~
 991 ~~implementation of the advance directives requirements.~~

992 (A) THE CONSUMER ALSO HAS THE RIGHT TO USE THIS HOTLINE TO LODGE
 993 COMPLAINTS REGARDING CARE RECEIVED OR NOT RECEIVED, INCLUDING
 994 IMPLEMENTATION OF THE ADVANCE DIRECTIVES REQUIREMENTS.

Commented [BM63]: Propose to strike here and move to Disclosure Notices below.

Commented [BM64]: Some of (5) and (6) from SOM. Propose to keep as is.

Commented [BM65]: Moved sentence to Disclosure Notices.

Commented [BM66]: Not new language. Broken out from (6) above.

- 995 (H7) The HCA shall make available to the consumer or authorized representative,
996 upon request, a written notice listing all individuals or other legal entities having
997 ownership or controlling interest in the agency.
- 998 (A) WHEN A CHANGE OF OWNERSHIP OCCURS, THE NEW OWNER SHALL SEND A
999 WRITTEN NOTICE TO ALL OF THE HCA'S CONSUMERS LISTING ALL OF THE NEW
1000 OWNERS, AND GIVE THE CONSUMER THE OPPORTUNITY TO CONTINUE
1001 SERVICES WITH THE HCA OR RECEIVE ASSISTANCE IN TRANSFERRING CARE
1002 AND SERVICES TO A DIFFERENT HCA.
- 1003 (H8) The HCA shall maintain documentation showing that it has complied with the
1004 requirements of this section.
- 1005 **6.55.4 Admissions**
- 1006 (A) Agencies shall only accept consumers for care or services on the basis of a reasonable
1007 assurance that the needs of the consumer can be met adequately by the agency in the
1008 individual's temporary or permanent home or place of residence.
- 1009 (1) There shall be initial documentation of the agreed upon days and times of
1010 services to be provided, based upon the consumer's needs, that is updated at
1011 least annually.
- 1012 (B) If an agency receives a referral of a consumer who requires care or services that are not
1013 available at the time of referral, the agency shall advise the consumer's primary care
1014 provider, if applicable, and the consumer or authorized representative of that fact.
- 1015 (1) The agency shall only admit the consumer if the primary care provider and the
1016 consumer or consumer's representative agree the ordered services can be
1017 delayed or discontinued.
- 1018 **6.65.5 Discharge Planning**
- 1019 (A) There shall be a specific plan for discharge in the consumer record, and there shall be
1020 ongoing discharge planning with the consumer.
- 1021 (B) If no improvement or no discharge is expected, the agency shall document **THIS FINDING** in
1022 the consumer record ~~this assessment~~.
- 1023 (C) The HCA shall assist each consumer or authorized representative to find an appropriate
1024 placement with another agency if the consumer continues to require care and/or services
1025 upon discharge. The HCA shall document due diligence in ensuring continuity of care
1026 upon discharge, as necessary, to protect the consumer's safety and welfare.
- 1027 (D) Once admitted, an HCA shall not discontinue or refuse services to a consumer unless
1028 documented efforts have been made to resolve the situation that triggered such
1029 discontinuation or refusal to provide services.
- 1030 (1) The consumer or authorized representative shall be notified, verbally and in
1031 writing, of the agency's intent to discharge and the reasons for the discharge.
- 1032 (E) AN HCA SHALL NOTIFY THE DEPARTMENT BEFORE IT INITIATES DISCHARGE OF ANY CONSUMER
1033 WHO REQUIRES AND DESIRES CONTINUING PAID CARE OR SERVICES WHERE THERE ARE NO
1034 KNOWN TRANSFER ARRANGEMENTS TO PROTECT THE CONSUMER'S HEALTH, SAFETY, OR
1035 WELFARE.

Commented [BM67]: Modified from ALR language

Additional guidance language on who needs to be listed.

1036 (1) EMERGENCY DISCHARGES NECESSARY TO PROTECT THE SAFETY AND WELFARE OF
 1037 STAFF SHALL BE REPORTED TO THE DEPARTMENT WITHIN FORTY-EIGHT (48) HOURS OF
 1038 THE OCCURRENCE.]

Commented [BM68]: Not new language. Moved from Agency Reporting Requirements.

1039 6.75.6 Disclosure Notices

1040 (A) AGENCY DISCLOSURE NOTICE

1041 (A1) WITHIN ONE (1) BUSINESS DAY OF THE START OF SERVICES, THE HCA shall provide a
 1042 written disclosure notice to the consumer, or authorized representative, ~~within~~
 1043 ~~one (1) business day of the start of services~~ that specifies the service provided
 1044 by the HCA and the consumer's obligation regarding the home care worker.

1045 (B2) The disclosure notice, in the form and manner prescribed by the Department,
 1046 shall be signed by the consumer or authorized representative, and shall include
 1047 information as to who is responsible for the following items:

1048 (4A) Employment of the home care worker.

1049 (2B) Liability for the home care worker while in the consumer's home.

1050 (3C) Payment of wages to the home care worker.

1051 (4D) Payment of employment and social security taxes.

1052 (5E) Payment of unemployment, worker's compensation, general liability
 1053 insurance, and, if provided, bond insurance.

1054 (6F) Supervision of the home care worker.

1055 (7G) Scheduling of the home care worker.

1056 (8H) Assignment of duties to the home care worker.

1057 (9I) Hiring, firing, and discipline of the home care worker.

1058 (4J) Provision of materials or supplies for the home care worker's use in
 1059 providing services to the consumer, and

1060 (4K) Training and ensuring qualifications that meet the needs of the
 1061 consumer.

1062 (C3) WITHIN ONE (1) BUSINESS DAY OF THE START OF SERVICES, THE HCA shall ensure
 1063 that the consumer, or authorized representative, acknowledges the disclosure
 1064 notice is within one (1) business day of the start of services.

1065 (A) IN THE EVENT THE CONSUMER REFUSES TO ACKNOWLEDGE THE DISCLOSURE
 1066 NOTICE IN WRITING, THE HCA WILL DOCUMENT THE CONVEYANCE OF
 1067 INFORMATION VERBALLY TO THE CONSUMER OR AUTHORIZED
 1068 REPRESENTATIVE.

1069 (B) NOTICE OF CONSUMER RIGHTS

1070 (1) WITHIN ONE (1) BUSINESS DAY OF THE START OF SERVICES, THE HCA SHALL PROVIDE
 1071 THE CONSUMER OR AUTHORIZED REPRESENTATIVE WITH A NOTICE OF THE CONSUMER'S

1072 RIGHTS, IN THE FORM AND MANNER PRESCRIBED BY THE DEPARTMENT, AND IN A
1073 MANNER THAT THE CONSUMER UNDERSTANDS.

1074 (2) THE NOTICE SHALL INCLUDE INFORMATION ABOUT THE CONSUMER'S OPTIONS IF RIGHTS
1075 ARE VIOLATED, INCLUDING HOW TO CONTACT AN INDIVIDUAL EMPLOYED WITH THE HCA
1076 WHO IS RESPONSIBLE FOR THE COMPLAINT INTAKE, AND PROBLEM RESOLUTION
1077 PROCESS.

Commented [BM69]: Not new language. From Notice of rights above.

1078 (C) WITHIN ONE (1) BUSINESS DAY OF THE START OF SERVICES, THE HCA SHALL INFORM THE
1079 CONSUMER CONCERNING THE AGENCY'S POLICIES ON ADVANCE DIRECTIVES, INCLUDING A
1080 DESCRIPTION OF APPLICABLE STATE LAW. THE HCA MAY FURNISH ADVANCE DIRECTIVES
1081 INFORMATION TO A CONSUMER AT THE TIME OF THE FIRST HOME VISIT, AS LONG AS THE
1082 INFORMATION IS FURNISHED BEFORE CARE IS PROVIDED.

1083 (D) WITHIN ONE (1) BUSINESS DAY OF THE START OF SERVICES, THE HCA SHALL INFORM THE
1084 CONSUMER OR AUTHORIZED REPRESENTATIVE, ORALLY AND IN WRITING, OF THE EXTENT TO
1085 WHICH PAYMENT FOR THE HCA SERVICES MAY BE EXPECTED FROM INSURANCE OR OTHER
1086 SOURCES, AND THE EXTENT TO WHICH PAYMENT MAY BE REQUIRED FROM THE CONSUMER.

Commented [BM70]: Not new language. Moved from above.

1087 (E) WHEN THE HCA ACCEPTS THE CONSUMER FOR TREATMENT OR CARE, THE HCA SHALL INFORM
1088 THE CONSUMER, IN WRITING, OF THE TELEPHONE NUMBER OF THE HOME HEALTH HOTLINE
1089 ESTABLISHED BY THE STATE, THE HOURS OF ITS OPERATION, AND THAT THE PURPOSE OF THE
1090 HOTLINE IS TO RECEIVE COMPLAINTS OR QUESTIONS ABOUT LOCAL HCAs.

Commented [BM71]: Not new language. Broken out from above.

1091 (F) THE HCA SHALL MAINTAIN DOCUMENTATION SHOWING THAT IT HAS COMPLIED WITH THE
1092 REQUIREMENTS OF THIS SECTION.

Commented [BM72]: Not new language. Duplicated from the Right to be informed section above.

1093 ~~6.8~~ Non-compete agreements

1094 (A) ~~An HCA shall not coerce, threaten, or use any means of intimidation to prevent an~~
1095 ~~employee from terminating the employment relationship and commencing employment at~~
1096 ~~another HCA.~~

1097 (B) ~~Non-compete clauses, agreements or contracts shall only be enforceable in accordance~~
1098 ~~with Section 8-2-113, C.R.S.~~

Commented [BM73]: Recommend striking this language since it ultimately is up to a court of law to settle any dispute between employer and employee. If we remove here, recommend including this language in guidance.

1099 6.95.7 Complaint Processing

1100 (A) The HCA shall develop and implement policies to include the following items:

1101 (1) Investigation of complaints made by a consumer or others about services or care
1102 that ~~is~~ARE or ~~is~~ARE not furnished, or about the lack of respect for the consumer's
1103 person or property by anyone furnishing services on behalf of the HCA.

1104 (2) Documentation of the existence, the investigation, and the resolution of the
1105 complaint. ~~The agency shall notify the complainant of the results of the~~
1106 ~~investigation and the agency's plan to resolve any issue identified.~~

1107 (A) THE AGENCY SHALL NOTIFY THE COMPLAINANT OF THE RESULTS OF THE
1108 INVESTIGATION AND THE AGENCY'S PLAN TO RESOLVE ANY ISSUE IDENTIFIED.

Commented [SA74]: Not new language. Broken out from above.

1109 (3) Incorporation of the substantiated findings into ~~it's~~THE HCA's quality assurance
1110 program in order to evaluate and implement systemic changes, where needed.

1111 (4) ~~AN~~ explicit statement that the HCA does not discriminate or retaliate against a
1112 consumers for expressing a complaint or multiple complaints.

1113 (5) Maintenance of a separate ~~WRITTEN OR ELECTRONIC~~ record/log/file detailing all
1114 activity regarding complaints received, and their investigation and resolution
1115 thereof. ~~The record shall be maintained for at least a two (2) year period of time
1116 and shall be available for audit and inspection purposes.~~

1117 (A) ~~THE RECORD SHALL BE MAINTAINED FOR AT LEAST A TWO (2) YEAR PERIOD OF
1118 TIME AND SHALL BE AVAILABLE FOR AUDIT AND INSPECTION PURPOSES.~~

Commented [SA75]: Not new language. Broken out from above.

1119 ~~6.405.8~~ Agency Reporting Requirements

1120 (A) ~~Each HCA shall comply with the occurrence reporting requirements set forth in 6 CCR
1121 1011, Chapter 2, Part 4.2. THE PROVISIONS OF 6 CCR 1011-1, CHAPTER 2, PART 4.2,
1122 REGARDING OCCURRENCE REPORTING REQUIREMENTS SHALL APPLY TO ALL HCAs AND HOME
1123 CARE PLACEMENT AGENCIES.~~

Commented [BM76]: Updated to match language

1124 (B) ~~The agency shall investigate each reportable occurrence and institute appropriate
1125 measures to prevent similar future occurrences. THE HCA SHALL DEVELOP AND IMPLEMENT
1126 POLICIES AND PROCEDURES REGARDING THE INVESTIGATION OF REPORTABLE OCCURRENCES
1127 AND ANY ALLEGED INCIDENTS INVOLVING NEGLIGENCE, ABUSE, OR PERSONNEL MISCONDUCT,
1128 INCLUDING BUT NOT LIMITED TO:~~

Commented [BM77]: Stricken here and moved to (B)(2) below.

1129 (1) ~~THE TIMELY INVESTIGATION OF ALL ALLEGED INCIDENTS INVOLVING NEGLIGENCE, ABUSE,
1130 OR PERSONNEL MISCONDUCT IN A TIMELY MANNER.~~

Commented [BM78]: Not new language. Moved from original (E)(3)

1131 (2) ~~THE INVESTIGATION OF EACH REPORTABLE OCCURRENCE AND APPROPRIATE MEASURES
1132 INSTITUTED TO PREVENT SIMILAR FUTURE OCCURRENCES.~~

Commented [BM79]: Clarified the language

1133 (A) ~~A REPORT WITH THE INVESTIGATION FINDINGS SHALL BE AVAILABLE FOR
1134 REVIEW BY THE DEPARTMENT WITHIN FIVE (5) WORKING DAYS OF THE
1135 OCCURRENCE.~~

Commented [BM80]: Not new language. From original (B) above.

1136 (3) ~~ADMINISTRATIVE PROCEDURES TO BE IMPLEMENTED TO PROTECT THE HCA'S
1137 CONSUMERS DURING THE INVESTIGATION PROCESS.~~

Commented [BM82]: Not new language. Moved from original (E)(3)

1138 (4) Documentation regarding the investigation, including the appropriate measures
1139 to be instituted, THAT shall be made available to the dDepartment, upon request.

1140 (2) ~~A report with the investigation findings shall be available for review by
1141 the dDepartment within five (5) working days of the occurrence.~~

1142 (C) Nothing in this section ~~PART 5.86-40~~ shall be construed to limit or modify any statutory or
1143 common-law right, privilege, confidentiality, or immunity.

1144 (D) ~~An HCA shall notify the dDepartment before it initiates discharge of any consumer who
1145 requires and desires continuing paid care or services where there are no known transfer
1146 arrangements to protect the consumer's health, safety, or welfare.~~

1147 (1) ~~Emergency discharges necessary to protect the safety and welfare of staff shall
1148 be reported to the dDepartment within 48 hours of the occurrence.~~

Commented [BM83]: Stricken here and moved to Discharge Planning above.

1149 (E) ~~The home care agency shall ensure that all staff have knowledge of Article 3.1 of Title 26,
1150 C.R.S. regarding protective services for at-risk adults, and that all incidents involving~~

1151 neglect, abuse or financial exploitation are reported immediately, through established
1152 procedures, to the agency administrator or manager.

1153 (1) Any home care agency that provides care and/or services to pediatric
1154 consumers, shall ensure that all staff have knowledge of Part 3 of Article 3 of
1155 Title 19, C.R.S. regarding child abuse or neglect, and that all incidents involving
1156 child abuse or neglect are reported immediately, through established procedures,
1157 to the agency administrator or manager.

1158 (2) The agency shall report the incident to the appropriate officials as specified in the
1159 statute and, if applicable, to the department as an occurrence. The agency shall
1160 make copies of all such reports available to the department upon request.

1161 (3) The agency shall document that all alleged incidents involving neglect, abuse, or
1162 health professional misconduct are thoroughly investigated in a timely manner.
1163 The agency shall develop and implement a policy that addresses what
1164 administrative procedures will be implemented to protect its consumers during
1165 the investigation process.

Commented [BM84]: Recommend striking here and updating language to reflect statutory changes in new (D) below.

Commented [BM85]: Moved to (B)(1) and (B)(3) above.

1166 (D) MANDATORY REPORTING

1167 (1) HCA PERSONNEL ENGAGED IN THE CARE OR TREATMENT OF AT-RISK PERSONS SHALL
1168 REPORT SUSPECTED PHYSICAL OR SEXUAL ABUSE, EXPLOITATION, AND/OR CARETAKER
1169 ~~NEGLECT~~ TO LAW ENFORCEMENT WITHIN TWENTY-FOUR (24) HOURS OF OBSERVATION
1170 OR DISCOVERY PURSUANT TO SECTION 18-6.5-108, C.R.S.

Commented [BM86]: Verbal abuse is covered under caretaker neglect in the statute. Will add language into guidance document.

1171 (2) HCA PERSONNEL ENGAGED IN THE CARE OR TREATMENT OF CHILDREN SHALL REPORT
1172 SUSPECTED ABUSE OR NEGLECT TO THE COUNTY DEPARTMENT, LOCAL LAW
1173 ENFORCEMENT, OR TO THE CHILD ABUSE REPORTING HOTLINE PURSUANT TO SECTION
1174 19-3-304 AND 307, C.R.S.

Commented [BM87]: (1) and (2) new language based on updated statutory requirements.

1175 (3) THE HCA SHALL ENSURE ALL PERSONNEL HAVE KNOWLEDGE OF THESE
1176 REQUIREMENTS.

1177 (4) THE HCA SHALL REPORT THE INCIDENT TO THE DEPARTMENT AS AN OCCURRENCE, IF
1178 APPLICABLE.

Commented [BM88]: (3) and (4) not new language. Modified from original (E).

1179 6.115.9 Personnel records and policies

1180 (A) POLICIES

1181 (1) Agency policy shall direct any program or service offered by the HCA directly or
1182 under arrangement is provided in accordance with the plan of care and agency
1183 policy and procedure.

Commented [BM89]: Recommend striking here and moving to individual parts (skilled and non-skilled).

1184 (1) The HCA shall define the required competence, qualifications, and experience of
1185 staff PERSONNEL in each program or service it provides.

1186 (2) Personnel policies shall be available to all full and part time employees.

1187 (2) THE HCA SHALL ENSURE THAT ALL PERSONNEL HAVE ACCESS TO AND ARE
1188 KNOWLEDGEABLE ABOUT THE HCA'S POLICIES AND PROCEDURES.

Commented [SA90]: Suggested modification of existing (2)

1189 (B) RECORDS

- 1190 (1) Personnel records for all employees shall include references, dates of
 1191 employment and separation from the HCA agency, and the reason for
 1192 separation. Personnel records for all employees shall also include:
- 1193 (2) PERSONNEL RECORDS SHALL INCLUDE, AT A MINIMUM:
- 1194 (A4) Qualifications and licensure that are kept current:
- 1195 (ia) Qualifications include confirmation of type and depth of
 1196 experience, advanced skills, training, and education; and
 1197 appropriate, detailed, and observed competency evaluation; and
 1198 written testing overseen by a person with the same or higher
 1199 validated qualifications;
- 1200 (B2) Orientation to the agency;
- 1201 (C3) Job descriptions for all positions assigned by the agency; and
- 1202 (D4) Annual performance evaluation for each employee.
- 1203 (C) CRIMINAL HISTORY RECORD CHECKS
- 1204 (1) THE HCA SHALL REQUIRE ANY INDIVIDUAL SEEKING EMPLOYMENT WITH THE AGENCY TO
 1205 SUBMIT TO A CRIMINAL HISTORY RECORD CHECK TO ASCERTAIN WHETHER THE
 1206 INDIVIDUAL SEEKING EMPLOYMENT HAS BEEN CONVICTED OF A FELONY OR
 1207 MISDEMEANOR, WHICH FELONY OR MISDEMEANOR INVOLVES CONDUCT THAT THE
 1208 AGENCY DETERMINES COULD POSE A RISK TO THE HEALTH, SAFETY, OR WELFARE OF
 1209 HOME CARE CONSUMERS.
- 1210 (2) THE CRIMINAL HISTORY RECORD CHECK SHALL, AT A MINIMUM, INCLUDE A SEARCH OF
 1211 CRIMINAL HISTORY IN THE STATE OF COLORADO AND BE CONDUCTED NOT MORE THAN
 1212 NINETY (90) DAYS PRIOR TO EMPLOYMENT OF THE INDIVIDUAL.
- 1213 (3) THE COST OF SUCH INQUIRY SHALL BE PAID BY EITHER THE HCA OR THE INDIVIDUAL
 1214 SEEKING EMPLOYMENT.
- 1215 (4) IN ASSESSING WHETHER TO EMPLOY AN APPLICANT WITH A FELONY OR MISDEMEANOR
 1216 CONVICTION, THE HCA SHALL CONSIDER THE FOLLOWING FACTORS:
- 1217 (A) THE HISTORY OF CONVICTIONS; OR PLEAS OF GUILTY OR NO CONTEST;
- 1218 (B) THE NATURE AND SERIOUSNESS OF THE CRIMES;
- 1219 (C) THE TIME THAT HAS ELAPSED SINCE THE CONVICTION(S);
- 1220 (D) WHETHER THERE ARE ANY MITIGATING CIRCUMSTANCES; AND
- 1221 (E) THE NATURE OF THE POSITION FOR WHICH THE APPLICANT WOULD BE
 1222 EMPLOYED.
- 1223 (5) THE HCA SHALL DEVELOP AND IMPLEMENT POLICIES AND PROCEDURES REGARDING
 1224 THE EMPLOYMENT OF ANY INDIVIDUAL WHO IS CONVICTED OF A FELONY OR
 1225 MISDEMEANOR TO ENSURE THAT THE INDIVIDUAL DOES NOT POSE A RISK TO THE
 1226 HEALTH, SAFETY, AND WELFARE OF THE CONSUMER.

Commented [BM91]: Not new language. Broken out from above.

Commented [SA92]: Consistent with statutory requirements found at Section 25-27.5-107, C.R.S.

Commented [BM93]: Not new language. Moved from its own subpart above.

1227 (D) BEFORE EMPLOYING ANY INDIVIDUAL TO PROVIDE DIRECT CONSUMER CARE OR SERVICES, THE
 1228 HCA MUST SHOW COMPLIANCE WITH THE COLORADO ADULT PROTECTIVE SERVICES DATA
 1229 SYSTEM (CAPS CHECK) REQUIREMENTS AS SET FORTH IN SECTION 26-3.1-111, C.R.S., AND 6
 1230 CCR 1011-1, CHAPTER 2, PART 2.3.6.

Commented [BM94]: Language from Chapter 2

1231 (E) Before employing any individual to provide direct consumer care or services, the agency
 1232 shall contact the Colorado Department of Regulatory Agencies (DORA) to verify whether
 1233 a license, registration, or certification exists and is in good standing. A copy of the
 1234 inquiry shall be placed in the individual's personnel file.

1235 (F) CONTRACTED PERSONNEL

Commented [BM95]: Not new language. Moved from its own subpart below.

1236 (1) IF CONTRACTED PERSONNEL ARE USED BY THE HCA, THE HCA SHALL BEHAVE A
 1237 WRITTEN CONTRACT WITH SUCH PERSONNEL THAT SPECIFIES THE FOLLOWING:

1238 (A) THAT CONSUMERS ARE ACCEPTED FOR CARE ONLY BY THE PRIMARY HCA;

1239 (B) THE SPECIFIC SERVICES TO BE FURNISHED;

1240 (C) THE NECESSITY TO CONFORM TO ALL APPLICABLE AGENCY POLICIES,
 1241 INCLUDING PERSONNEL QUALIFICATIONS;

1242 (D) THE RESPONSIBILITY FOR PARTICIPATING IN DEVELOPING PLANS OF CARE OR
 1243 SERVICE;

1244 (E) THE MANNER IN WHICH SERVICES WILL BE CONTROLLED, COORDINATED, AND
 1245 EVALUATED BY THE PRIMARY HCA;

1246 (F) THE PROCEDURES FOR SUBMITTING CLINICAL/SERVICE NOTES, SCHEDULING OF
 1247 VISITS, AND PERIODIC CONSUMER EVALUATION; AND

1248 (G) THE PROCEDURES FOR PAYMENT FOR SERVICES FURNISHED UNDER THE
 1249 CONTRACT.

1250 (2) PERSONNEL POLICIES SHALL BE AVAILABLE TO ALL CONTRACTED PERSONNEL.

1251 6-125.10 Emergency Preparedness

Commented [BM96]: New language developed with input from a small workgroup and vetted with all stakeholders in April and May 2021. Existing requirement(s) noted in comments.

1252 (A) THE HCA SHALL CONDUCT A RISK ASSESSMENT OF THE HAZARDS OR POTENTIAL EMERGENCY
 1253 SITUATIONS THE HCA COULD ENCOUNTER.

1254 (1) THIS ASSESSMENT SHALL ADDRESS, BUT NOT BE LIMITED TO, THE FOLLOWING
 1255 CONSIDERATIONS:

1256 (A) GEOGRAPHICAL LOCATION OF THE HCA, ANY BRANCH OFFICES AND
 1257 WORKSTATIONS, AND ITS CONSUMERS;

1258 (B) NEEDS OF THE HCA'S CONSUMER POPULATION; AND

1259 (C) POTENTIAL NATURAL AND HUMAN-MADE CRISES THAT IMPACT THE HCA'S
 1260 ABILITY TO OPERATE, INCLUDING BUT NOT LIMITED TO, EXTREME WEATHER,
 1261 FIRE, POWER OR INTERNET/COMMUNICATION OUTAGES, THREATENED OR
 1262 ACTUAL ACTS OF VIOLENCE, AND PANDEMIC OR DISEASE OUTBREAK EVENTS.

1263 (2) THE ASSESSMENT SHALL BE DOCUMENTED.

- 1264 (3) THE ASSESSMENT SHALL BE REVIEWED AT LEAST ANNUALLY, AND UPDATED AS
1265 NECESSARY.
- 1266 (B) THE HCA SHALL DEVELOP A WRITTEN EMERGENCY PREPAREDNESS PLAN, BASED ON THE
1267 RESULTS OF THE ASSESSMENT REQUIRED IN PART 5.10(A), WHICH THAT IS DESIGNED TO
1268 MANAGE CONSUMERS' CARE AND SERVICES, AND THE HCA SHALL IMPLEMENT THE PLAN IN
1269 RESPONSE TO THE CONSEQUENCES OF NATURAL DISASTERS OR OTHER EMERGENCIES THAT
1270 DISRUPT THE HCA'S ABILITY TO PROVIDE CARE AND SERVICES OR THREATENS THE LIVES OR
1271 SAFETY OF ITS CONSUMERS.
- 1272 (C) THE EMERGENCY PREPAREDNESS PLAN SHALL BE REVIEWED AT LEAST ANNUALLY OR AFTER ANY
1273 EMERGENCY RESPONSE, AND SHALL BE UPDATED AS NECESSARY.
- 1274 (D) PERSONNEL SHALL BE TRAINED ON THE EMERGENCY PREPAREDNESS PLAN UPON HIRE, AND AT
1275 LEAST ANNUALLY OR WHEN ANY CHANGES IN THE EMERGENCY PREPAREDNESS PROCESS,
1276 PROCEDURES, OR RESPONSIBILITIES ARE MADE.
- 1277 (E) AT A MINIMUM, THE EMERGENCY PREPAREDNESS PLAN SHALL INCLUDE THE FOLLOWING:
- 1278 (1) STRATEGIES FOR ADDRESSING EMERGENCY SITUATIONS IDENTIFIED BY THE RISK
1279 ASSESSMENT;
- 1280 (2) IDENTIFICATION OF PERSONNEL RESPONSIBLE FOR RESPONDING TO EMERGENCY
1281 SITUATIONS AND IMPLEMENTING THE PLAN;
- 1282 (3) PROCEDURES TO CONTACT PERSONNEL AND CONSUMERS IMPACTED BY AN
1283 EMERGENCY;
- 1284 (4) A MECHANISM FOR ASSESSING AND TRIAGING THE NEEDS OF ITS CONSUMERS TO
1285 ENSURE CONTINUATION OF NECESSARY CARE FOR ALL CONSUMERS DURING AN
1286 EMERGENCY. THE HCA SHALL CONTINUALLY ASSESS THE STATUS OF ITS CONSUMERS
1287 TO ENSURE THEY ARE TRIAGED APPROPRIATELY BASED ON NEEDS;
- 1288 (5) STRATEGIES FOR CONTINUING TO PROVIDE CONSUMER SERVICES WHEN THERE ARE
1289 INTERRUPTIONS IN THE SUPPLY OF ESSENTIALS, INCLUDING BUT NOT LIMITED TO:
1290 WATER, PHARMACEUTICALS, AND PERSONAL PROTECTIVE EQUIPMENT (PPE);
- 1291 (6) EDUCATION FOR CONSUMERS, CAREGIVERS, AND FAMILIES ON HOW TO HANDLE CARE
1292 AND TREATMENT, SAFETY, AND/OR WELL-BEING DURING AND FOLLOWING INSTANCES OF
1293 NATURAL AND OTHER DISASTERS, INCLUDING STRATEGIES AND RESOURCES FOR
1294 ENSURING ACCESS TO LIFE SUSTAINING SUPPLIES, APPROPRIATE TO THE NEEDS OF THE
1295 CONSUMER;
- 1296 (7) STRATEGIES TO PROTECT AND TRANSFER CONSUMER RECORDS, IF NECESSARY; AND
- 1297 (8) STRATEGIES FOR CONTINUING CONSUMER CARE IN THE EVENT THE HCA IS UNABLE TO
1298 ACCESS CONSUMER RECORDS.
- 1299 (A) ~~The home care agency (HCA) shall have a written emergency preparedness plan that is~~
1300 ~~designed to manage consumers' care and services in response to the consequences of~~
1301 ~~natural disasters or other emergencies that disrupt the agency's ability to provide care~~
1302 ~~and services or threatens the lives or safety of its consumers.~~
- 1303 (B) ~~At a minimum, an agency's written emergency preparedness plan shall include the~~
1304 ~~following:~~

Commented [BM97]: Broke into two sentences for ease of reading

Commented [BM98]: Existing requirement, updated to reflect risk assessment

Commented [BM99]: Existing requirement

Commented [BM100]: (2) and (6) are existing requirements

- 1305 (1) Provisions for the management of all staff who are designated to be involved in
 1306 emergency measures, including the assignment of responsibilities and functions.
 1307 All staff shall be informed of their duties and be responsible for implementing the
 1308 emergency preparedness plan.
- 1309 (2) Education for consumers, caregivers, and families on how to handle care and
 1310 treatment, safety, and/or well-being during and following instances of natural
 1311 (tornado, flood, blizzard, fire, etc.) and other disasters, or other similar situations,
 1312 appropriate to the needs of the consumer.
- 1313 (3) Adequate staff education on emergency preparedness so that staff safety is
 1314 assured.
- 1315 (G) The agency shall review its emergency preparedness plan after any incident response
 1316 and on an annual basis, and incorporate into policy any substantive changes.
- 1317 **6-135.11** Coordination with eExternal hHome eCare aAgencies
- 1318 (A) Each HCA shall be responsible for the coordination of consumer services with known
 1319 external HCAs providing care and services to the same consumer.
- 1320 (1) No HCA shall refuse to share consumer care information unless the consumer
 1321 has chosen to refuse coordination with external HCAs.
- 1322 (2) The consumer's refusal of such coordination shall be documented in the
 1323 consumer's record.
- 1324 **6-145.12** Quality Mmanagement Pprogram
- 1325 (A) Every HCA shall establish a quality management program appropriate to the size and type of agency
 1326 that evaluates the quality of consumer services, care, and safety, and that complies with the requirements
 1327 set forth in 6 CCR 1011, Chapter 2, Part 4.1.
- 1328 **6-155.13** Infection PREVENTION AND Ccontrol
- 1329 (A) The HCA shall provide training for its PERSONNEL employees regarding the agency's
 1330 written infection PREVENTION AND control policies and procedures at the time of hire and
 1331 AT LEAST annually.
- 1332 (B) The HCA shall evaluate the adequacy of its infection PREVENTION AND control policies and
 1333 procedures at least annually, make any necessary substantive changes, and document
 1334 SUCH CHANGES in writing OR ELECTRONICALLY.
- 1335 **6-16** (C) PERSONNEL Employee hHealth – eCommunicable dDisease pPrevention
- 1336 (A1) It shall be the responsibility of the HCA to establish written policies concerning
 1337 pre-employment physical evaluations and PERSONNEL employee health. Those
 1338 policies shall include, but not be limited, to:
- 1339 (1A) Work restrictions to be placed on direct care PERSONNEL staff who are
 1340 known to be affected with any illness in a communicable stage or to be a
 1341 carrier of a communicable illness or disease; afflicted with boils,
 1342 jaundice, infected wounds, vomiting, diarrhea or acute respiratory
 1343 infections.

Commented [BM101]: Moved this under 5.13 Infection Prevention and Control

- 1344 6.17.5.14 Missed vVisits
- 1345 (A) There HCA shall be HAVE a mechanism for informing the consumer about scheduled visits
 1346 in accordance with HCA agency policy. Documentation shall be maintained and
 1347 alterations in the schedule shall be provided to the consumer IN ADVANCE OF ANY CHANGES
 1348 TO THE SCHEDULE, WHERE POSSIBLE. as soon as practical.
- 1349 (1) The HCA's policy shall address processes for HCA planning for coverage of
 1350 PERSONNEL employee illness, vacation, holidays, and unexpected voluntary or
 1351 involuntary termination of employment.
- 1352 (2) If the consumer does not respond to let PERSONNEL staff in the home for the
 1353 scheduled visit, the HCA's attempts to ensure the safety of the consumer and the
 1354 outcome of each attempt shall be documented.
- 1355 (3) If there is a missed visit, services MISSED shall be provided as agreed upon by the
 1356 consumer and the HCA.
- 1357 (4) If the HCA admits CONSUMERS with needs that require care or services to be
 1358 delivered at specific times or parts of day, the HCA shall ensure qualified
 1359 PERSONNEL staff in sufficient quantity are employed by the agency; or have other
 1360 effective back-up plans to ensure the needs of the consumer is ARE met.
- 1361 (5) The back-up plan for scheduled visits SERVICES THAT CANNOT BE DELIVERED shall
 1362 not include calling for an ambulance or other emergency services unless
 1363 EMERGENCY SERVICES WOULD HAVE BEEN WARRANTED EVEN IF the presence of the
 1364 scheduled PERSONNEL staff HAD BEEN in the home AND HAD DELIVERED SERVICES.
 1365 would still have warranted the summons of emergency services.

Commented [BM102]: Non substantive change; language reworded to more accurately capture intent of regulation

1366 6.18 — Contracts

- 1367 (A) If personnel under hourly or per visit contracts are used by the HCA, there shall be a
 1368 written employment contract between those personnel and the agency that specifies the
 1369 following:
- 1370 (1) Home care consumers are accepted for care only by the primary HCA;
- 1371 (2) The specific services to be furnished;
- 1372 (3) The necessity to conform to all applicable agency policies, including personnel
 1373 qualifications;
- 1374 (4) The responsibility for participating in developing plans of care or service;
- 1375 (5) The manner in which services will be controlled, coordinated, and evaluated by
 1376 the primary HCA;
- 1377 (6) The procedures for submitting clinical/service notes, scheduling of visits, periodic
 1378 consumer evaluation, and
- 1379 (7) The procedures for payment for services furnished under the contract.
- 1380 6.19.5.15 Information Management System

Commented [BM103]: Struck here and moved to Personnel above.

- 1381 (A) Each HCA shall implement a policy and procedure for an effective information
 1382 management system **THAT IS** either paper-based or electronic. Processes shall include
 1383 effective management for capturing, reporting, processing, storing, and retrieving
 1384 clinical/service data and information in accordance with standards of practice. The
 1385 system shall provide for:
- 1386 (1) Privacy and confidentiality of protected health information from unauthorized use
 1387 or manipulation; **AND**
- 1388 (2) Organization of the consumer record utilizing standardized formats for
 1389 documenting all care, treatment, and services provided to consumers according
 1390 to ~~agency~~**HCA** policy. Standardization shall not include pre-filled documentation
 1391 of future care and services.
- 1392 (B) In addition, for electronic consumer ~~healthcare~~ records, policies and procedures shall be
 1393 ~~devised~~**DEVELOPED** and implemented to ensure:
- 1394 (1) A method for validating data entry access and changes to previously entered
 1395 data; **and**
- 1396 (2) Recovery of records, including contingency plans for operational interruptions
 1397 (hardware, software, or other systems failures), **AN** emergency service plan, **AND**
 1398 a back-up system for retrieval of data from storage; **and** information **presently** in
 1399 the operating system.
- 1400 ~~6-20~~(C) **CONTENT OF Consumer rRecords content**
- 1401 (A1) All HCAs shall have a complete and accurate record for each consumer
 1402 assessed, cared for, treated, or served. ~~The record shall contain sufficient~~
 1403 ~~information to identify the consumer; support the diagnosis or condition; justify~~
 1404 ~~the care, treatment, and/or services delivered; and promote continuity of care~~
 1405 ~~internally and externally, where applicable.~~
- 1406 (2) **THE RECORD SHALL CONTAIN SUFFICIENT INFORMATION TO IDENTIFY THE CONSUMER;**
 1407 **SUPPORT THE DIAGNOSIS OR CONDITION; JUSTIFY THE CARE, TREATMENT, AND/OR**
 1408 **SERVICES DELIVERED; AND PROMOTE CONTINUITY OF CARE INTERNALLY AND**
 1409 **EXTERNALLY, WHERE APPLICABLE.**
- 1410 (43) ~~Such rRecords~~ shall contain consumer-specific information as appropriate to the
 1411 care, treatment, or services provided, including but not limited to:
- 1412 (a) Records of communications with the consumer or authorized
 1413 representative regarding care, treatment, and services, including
 1414 documentation of phone calls and e-mails; **and**
- 1415 (b) Referrals to **and** names of **known** home care agencies, individuals, and
 1416 organizations involved in the consumer's care.
- 1417 (4) **THE RECORD SHALL INDICATE IF THE SERVICE OR VISIT WAS PROVIDED IN PERSON OR**
 1418 **VIA TELEHEALTH.**
- 1419 (25) Clinical records for HCAs providing skilled home health services shall contain,
 1420 where applicable:

Commented [BM104]: Not new language. Broken out from bullet above.

- 1421 (a) Hospital and emergency room records for known episodes or
1422 documentation of efforts to obtain the information;
- 1423 (b) Medical equipment provided by the HCA or related to the care,
1424 treatment, and services provided, including assessment of consumer and
1425 family comprehension of appropriate use and maintenance;
- 1426 (c) Consumer and family education, and training on services or treatments,
1427 and the use of equipment at the time of delivery to the home;
- 1428 (d) Safety measures taken to protect the consumer from harm, including fall
1429 risk assessments, and documentation why any identified or planned
1430 safety measures were not implemented or continued; and
- 1431 (e) Diagnostic and therapeutic procedures, treatments, tests, and their
1432 results ~~where known to have occurred.~~

1433 (D) CONSUMER RECORDS MUST BE RETAINED FOR FIVE (5) YEARS AFTER THE DISCHARGE OF THE
1434 CONSUMER, UNLESS STATE LAW **STIPULATES REQUIRES** A LONGER PERIOD OF **TIME**.

Commented [BM105]: Moved from skilled care since it applies to both skilled and non-medical HCAs.

1435 (1) THE HCA'S POLICIES SHALL PROVIDE FOR RETENTION OF CONSUMER RECORDS EVEN IF
1436 IT DISCONTINUES OPERATION.

1437 (A) WHEN AN HCA PERMANENTLY DISCONTINUES OPERATION, IT SHALL COMPLY
1438 WITH THE REQUIREMENTS OF 6 CCR 1011-1, CHAPTER 2, PART 2.14.4.

1439 (B) WHEN AN HCA DISCONTINUES OPERATION, IT SHALL INFORM THE STATE
1440 AGENCY OF WHERE CLINICAL RECORDS WILL BE MAINTAINED.

1441 (2) A CHANGE OF OWNERSHIP DOES NOT CONSTITUTE DISCONTINUING OPERATION.

1442 (3) WHEN AN HCA HAS A CHANGE OF OWNERSHIP, THE EXISTING OWNER SHALL PROVIDE
1443 THE NEW OWNER WITH ALL CONSUMER **RECORDS**.

Commented [BM106]: Add guidance language around this process

1444 **PART** ~~Section 76.~~ SKILLED CARE

1445 **76.1** Governing ~~B~~body

1446 (A) ~~An home care agency~~ HCA shall have an organized governing body, **CONSISTING OF**
1447 **MEMBERS WHO SINGULARLY OR COLLECTIVELY HAVE BUSINESS AND HEALTHCARE EXPERIENCE**
1448 **SUFFICIENT TO OVERSEE THE SERVICES PROVIDED BY THE HOME CARE HCA.**

Commented [BM107]: Pulled language from (1) into existing (A) for simplification

1449 **(1) The GOVERNING body shall consist of members who singularly or collectively have**
1450 **business and healthcare experience sufficient to oversee the services provided**
1451 **by the home care agency HCA.**

1452 ~~(B) The governing body shall have a process for review of agency operations at least~~
1453 ~~quarterly and meet at least annually.~~

Commented [BM108]: Recommend striking here and capture in (B)(4)(a) and (B)(4)(c) below.

1454 ~~(B)~~ The governing body shall assume responsibility for:

1455 (1) Compliance with all federal, **STATE, AND LOCAL LAWS AND** regulations, ~~state rules,~~
1456 ~~and local laws;~~

- 1457 (2) Quality consumer care, INCLUDING ANNUAL REVIEW AND APPROVAL OF THE HCA'S
1458 QUALITY MANAGEMENT PLAN;
- 1459 (3) DEVELOPMENT OF Policies and procedures which describe and direct functions
1460 or services of the home care agency HCA and protect consumer rights;
- 1461 (4) DEVELOPMENT OF Bylaws OR GOVERNING DOCUMENT that shall include, at a
1462 minimum:
- 1463 (a) A description of functions and duties of the governing body, officers, and
1464 committees, INCLUDING BUT NOT LIMITED TO, A PROCESS FOR REVIEW OF
1465 AGENCY OPERATIONS AT LEAST ANNUALLY;
- 1466 (b) A statement of the authority and responsibility delegated to the
1467 administrator; AND
- 1468 (c) A REQUIREMENT TO MEET Meet as stated in bylaws, at least annually.;
- 1469 (d) ~~Appoint in writing a qualified administrator who is responsible for the~~
1470 ~~agency's overall functions.~~
- 1471 (5) DEVELOPMENT OF A POLICY AND PROCEDURE FOR DETERMINING THE QUALIFICATIONS
1472 OF THE ADMINISTRATOR. APPOINTMENT OF A QUALIFIED ADMINISTRATOR, RESPONSIBLE
1473 FOR THE HCA'S OVERALL FUNCTIONS, SHALL BE DOCUMENTED IN WRITING.
- 1474 (6) Review of the written agency evaluation report and other communications from
1475 the administrator or group of professional personnel with evidence of written
1476 response.;
- 1477 (7) EstablishING and ensureING the maintenance of a system of financial
1478 management and accountability. and
- 1479 (8) OrganizING services furnished, administrative control, and lines of authority
1480 for the delegation of responsibility down to the consumer care level, that are
1481 clearly set forth in writing and are readily identifiable.
- 1482 (9) DOCUMENTATION OF GOVERNING BODY MEETINGS AND ACTIVITIES.

1483 76.2 Administration

- 1484 (A) The HCA, under the direction of the governing body, shall be responsible for preparation
1485 of an overall plan and a budget that includes an annual operating budget and capital
1486 expenditure plan, as applicable.
- 1487 (1) ~~The overall plan and budget shall be prepared by a committee consisting of~~
1488 ~~representatives of the governing body, the administrative staff, and the medical~~
1489 ~~staff (if any) of the HCA. The overall plan and budget shall be reviewed and~~
1490 ~~updated at least annually by the committee referred to herein under the direction~~
1491 ~~of the HCA governing body.~~
- 1492 (1) THE GOVERNING BODY SHALL REVIEW AND UPDATE THE OVERALL PLAN AND BUDGET AT
1493 LEAST ANNUALLY.
- 1494 (B) Any HCA that performs procedures in the consumer's residence that are considered
1495 waived clinical laboratory procedures under the Clinical Laboratory Improvement Act of

Commented [BM109]: Added language to specify that the QMP is different than the Agency Evaluation at 6.4.

Commented [BM110]: Recommend striking here and putting in (5) below.

Commented [BM111]: Removed committee requirement

Commented [BM112]: Modified language. Broken out from (1) above.

- 1496 1988 shall possess a certificate of waiver from the Centers for Medicare and Medicaid
1497 Services or its designated agency.
- 1498 (C) Any HCA that provides equipment to consumers shall have written **DEVELOP AND**
1499 **IMPLEMENT** policies and procedures for the management of medical equipment provided
1500 for use in consumer homes, including selection, acquisition, delivery, and maintenance
1501 of the equipment.
- 1502 (1) The HCA shall make full disclosure of the policies and procedures to all
1503 consumers before the equipment is provided. ~~The policies and procedures shall~~
1504 ~~include the following:~~
- 1505 (2) **THE POLICIES AND PROCEDURES SHALL INCLUDE THE FOLLOWING:**
- 1506 (a) A process to provide an appropriate back-up system, including
1507 emergency services **TWENTY-FOUR (24)** hours per day where the
1508 malfunction may threaten the consumer's life;
- 1509 (b) Monitoring and acting upon equipment hazard notices and recalls;
- 1510 (c) Checking equipment upon delivery to the consumer to ensure it is
1511 sanitary, undamaged, and operating properly;
- 1512 (d) Basic safety and operational checks on infusion pumps that include a
1513 volumetric test of accuracy of infusion rate between each consumer use;
1514 and
- 1515 (e) Performance of routine and preventative maintenance conducted at
1516 defined intervals per manufacturer's guidelines.
- 1517 (DE) Availability **AFTER BUSINESS HOURS**
- 1518 (1) The agency **HCA** shall have a registered nurse or other appropriate health
1519 professional available after business hours.
- 1520 (2) The agency **HCA** shall have a policy describing, at a minimum, the following:
- 1521 (AA) How consumers will contact the agency after hours; and
- 1522 (BB) How the agency will ensure the health professional on call has access to
1523 all current consumer information.
- 1524 7.3 Professional advisory ~~committee~~
- 1525 (A) ~~Each HCA shall have a group of professional personnel that includes at least one~~
1526 ~~physician and one registered nurse, an appropriate representation from the professional~~
1527 ~~disciplines the HCA employs or contracts with to provide services.~~
- 1528 (1) ~~The group of professional personnel shall establish and annually review the~~
1529 ~~agency's policies governing the services offered, admission and discharge~~
1530 ~~policies, medical supervision and plans of care, emergency care, clinical records,~~
1531 ~~personnel qualifications, and program evaluation.~~
- 1532 (2) ~~At least one member of the group shall not be an owner, an employee or a~~
1533 ~~contractor for the provision of consumer care services for the HCA.~~

Commented [BM113]: Not new language. Broken out from above.

Commented [BM114]: No longer a CMS requirement. Recommend striking this section. Moved (B) to Agency Evaluation below.

- 1534 (B) — The agency shall implement an on-going mechanism for consumer involvement to
 1535 provide input and comment regarding services provided by the agency in accordance
 1536 with agency policy. Consumer input and commentary shall be provided to the group of
 1537 professional personnel at least annually to identify trends or issues requiring
 1538 consideration of the group.
- 1539 (C) — The group of professional personnel shall meet annually and as frequently as necessary
 1540 to advise the agency on professional issues, to participate in the evaluation of the
 1541 agency's program, and to assist the agency in maintaining liaison with other health care
 1542 providers in the community and in the agency's community information program.
- 1543 (1) — The HCA shall have a policy and procedure to establish criteria for calling a
 1544 meeting of the group of professional personnel more frequently than annually.
 1545 The policy shall be developed to ensure professional advice is requested and
 1546 received at an appropriate frequency to protect and preserve the health, safety
 1547 and welfare of the consumers it serves.
- 1548 (2) — Each meeting shall be documented with the date and the signatures of
 1549 attendees. Meeting minutes shall be forwarded to the governing body to review
 1550 and make recommendations.

1551 7.46.3 Agency Evaluation

- 1552 (A) The agency HCA's governing body or its designee shall conduct a comprehensive
 1553 evaluation of the agency HCA's total operation at least annually.
- 1554 (B) The evaluation shall assure the appropriateness and quality of the agency's HCA's
 1555 services with findings used to verify policy implementation, to identify problems, and to
 1556 establish problem resolution and policy revision as necessary.
- 1557 (C) The evaluation shall consist of an overall policy and administration review, including the
 1558 scope of services offered, arrangements for services with other agencies or individuals,
 1559 admission and discharge policies, supervision and plan of care, emergency care, service
 1560 records, and personnel qualifications.
- 1561 (A1) THE HCA SHALL IMPLEMENT AN ON-GOING MECHANISM FOR CONSUMER INVOLVEMENT
 1562 TO PROVIDE INPUT AND COMMENT REGARDING SERVICES PROVIDED BY THE HCA IN
 1563 ACCORDANCE WITH HCA POLICY. CONSUMER INPUT AND COMMENTARY SHALL BE
 1564 PROVIDED TO THE GOVERNING BODY AT LEAST ANNUALLY TO IDENTIFY TRENDS OR
 1565 ISSUES REQUIRING CONSIDERATION.
- 1566 (D) In evaluating each aspect of its total program, the HCA shall consider four (4) main
 1567 criteria:
- 1568 (1) Appropriateness - assurance that the area being evaluated addresses existing
 1569 and/or potential problems.
- 1570 (2) Adequacy - a determination as to whether the HCA has the capacity to overcome
 1571 or minimize existing or potential problems.
- 1572 (3) Effectiveness - the services offered accomplish the objectives of the HCA and
 1573 anticipated consumer outcomes.
- 1574 (4) Efficiency - whether there is a minimal expenditure of resources by the HCA to
 1575 achieve desired goals and anticipated consumer outcomes.

Commented [BM115]: Moved from Professional Advisory Committee.

1576 (E) Documentation of the annual evaluation shall include the names and titles of the persons
 1577 carrying out the evaluation, the criteria and methods used to accomplish it, and any
 1578 action taken by the agencyHCA as a result of its findings.

1579 (F) Appropriate professionals representing the scope of the agencyHCA's program shall
 1580 evaluate the agencyHCA's clientCONSUMER records at least quarterly.

1581 (1) The evaluation shall include a review of sample active and closed
 1582 clientCONSUMER records to ensure that agencyHCA policies are followed in
 1583 providing services, both directly and under arrangement, and to assure that the
 1584 quality of service is satisfactory and appropriate. The review shall consist of a
 1585 representative sample of all home care services provided by the agencyHCA.

1586 7.56.4 Administrator

1587 (A) The administrator shall assume authority for the operation of the HCAagency's skilled
 1588 health services, including but not limited to:

- 1589 (1) Organizing and directing the HCAagency's ongoing functions;
- 1590 (2) Employing qualified personnel and ensureING appropriate ongoing education and
 1591 supervision of ALL personnel and volunteers;
- 1592 (3) Ensuring the accuracy of public information smaterials and activities;
- 1593 (4) Implementing a budgeting and accounting system; and
- 1594 (5) Designating IN WRITING a qualified alternate administrator to act in the
 1595 administrator's absence.

Commented [BM116]: Propose to strike (C)(9) below and add in writing here.

1596 (B) The administrator shall:

- 1597 (1) Be at least TWENTY-ONE (21) years of age;
- 1598 (2) Be a licensed physician, registered nurse, or other licensed healthcare
 1599 professional, or have experience and education in health service administration;
- 1600 (3) Be qualified by education, knowledge, and experience to oversee the services
 1601 provided; and
- 1602 (4) Have at least two (2) years healthcare or health service administration
 1603 experience with at least one (1) year of supervisory experience in home care or a
 1604 closely related health program.

Commented [BM117]: Address any additional clarification of who qualifies in guidance

1605 (C) The administrator shall have the overall responsibility to ensure the following:

- 1606 (1) The HCAagency's skilled health services are in compliance with all applicable
 1607 federal, state, and local laws;;
- 1608 (2) The completion, maintenance, and submission of such reports and records as
 1609 required by the dDepartment;;
- 1610 (3) Ongoing liaison with the governing body, staff membersPERSONNEL, and the
 1611 community;;

- 1612 (4) ~~MAINTENANCE OF A~~ current organizational chart to show lines of authority down
1613 to the consumer level;
- 1614 (5) The management of the business affairs and the overall operation of the
1615 HCA agency;
- 1616 (6) Maintenance of appropriate personnel records, financial, and administrative
1617 records and all policies and procedures of the agency;
- 1618 (7) Employment of qualified personnel in accordance with written job descriptions;
- 1619 (8) Orientation of new PERSONNEL staff, AND regularly scheduled in-service education
1620 programs and opportunities for continuing education ARE PROVIDED for the
1621 PERSONNEL staff;
- 1622 ~~(9) Designate in writing the qualified staff member to act in the absence of the~~
1623 ~~administrator, and~~
- 1624 (409) Availability of the administrator or designee at all hours PERSONNEL employees
1625 are providing services, at minimum, any eight (8) hour period between 7 a.m. and
1626 7 p.m. Monday through Friday;
- 1627 (4410) Marketing, advertising, and promotional information accurately represents the
1628 HCA and addresses the care, treatment, and services that the HCA can provide
1629 directly or through contractual arrangement; AND
- 1630 (11) MAINTENANCE OF A COORDINATED HCA-WIDE PROGRAM FOR THE SURVEILLANCE,
1631 IDENTIFICATION, PREVENTION, CONTROL, AND INVESTIGATION OF INFECTIOUS AND
1632 COMMUNICABLE DISEASES THAT IS AN INTEGRAL PART OF THE HCA'S QUALITY
1633 MANAGEMENT PROGRAM.
- 1634 7-6 (D) Curriculum for administrator training
- 1635 (A1) A first-time administrator or alternate administrator shall complete a total of
1636 TWENTY-FOUR (24) CLOCK hours of training in the administration of an HCA agency
1637 before the end of the first TWELVE (12) months after designation to the position.
- 1638 (B2) A first-time administrator or alternate administrator shall complete eight (8) clock
1639 hours of educational training in the administration of an HCA agency within the
1640 first month of employment. The eight (8) clock hours shall include, at a minimum,
1641 the following topics:
- 1642 (4A) Home care overview;
- 1643 (2B) Information on the licensing standards for the HCA agency; and
- 1644 (3C) Information on state and local laws applicable to the HCA agency.
- 1645 (C3) A first-time administrator or alternate administrator shall complete an additional
1646 SIXTEEN (16) clock hours of educational training before the end of the first TWELVE
1647 (12) months after designation to the position. Any of the SIXTEEN (16) CLOCK
1648 hours may be completed prior to designation if completed during the TWELVE (12)
1649 months immediately preceding the date of designation to the position. The
1650 additional SIXTEEN (16) clock hours shall include the following subjects and may
1651 include other topics related to the duties of an administrator:

Commented [BM118]: Redundant to (A)(5) above. Suggest strike.

Commented [BM119]: SOM §484.70(b)

Commented [BM120]: Moved this subsection under 6.4 Administrator

- 1652 (4A) Consumer rights, governing body and administrator responsibilities,
1653 professional advisory committee, quality management plans, occurrence
1654 reporting, and complaint investigation and resolution process;
- 1655 (2B) Personnel qualifications, experience, competency, and evaluations;
- 1656 (3C) Financial management;
- 1657 (4D) Ethics in healthcare;
- 1658 (5E) Needs of the fragile, ill, and physically and cognitively disabled in the
1659 community setting with special training and staffing considerations;
- 1660 (6F) Behavior management techniques;
- 1661 (7G) Staffing methodologies and oversight of scheduling;
- 1662 (8H) Staff training and supervision; and
- 1663 (9I) Limitations of personal care versus health care services.
- 1664 (D4) The TWENTY-FOUR (24) CLOCK hour education requirement shall be met through
1665 structured, formalized classes, correspondence courses, competency-based
1666 computer courses, training videos, distance learning programs, or other training
1667 courses. Subject matter that deals with the internal affairs of an organization
1668 does not qualify for credit. The training shall be provided or produced by an
1669 academic institution, a recognized state or national organization or association,
1670 an independent contractor, or an HCA agency.
- 1671 (4A) If an HCA agency or independent contractor provides or produces
1672 training, the training shall first be approved by the Department or
1673 recognized by a national organization or association. The HCA agency
1674 shall maintain documentation of this approval for review by inspectors.
- 1675 (E5) Documentation of administrator or alternate administrator training must be on file
1676 at the HCA agency and contain the name of the class or workshop, the course
1677 content or curriculum, the hours and dates of the training, and the name and
1678 contact information of the entity and trainer who provided the training.
- 1679 (F6) After completion of the TWENTY-FOUR (24) CLOCK hours of educational training
1680 within the first TWELVE (12) months after designation as a first-time administrator
1681 or alternate administrator, each must then complete the continuing education
1682 requirements in each subsequent TWELVE (12)-month period after designation.
- 1683 (G7) An administrator shall complete TWELVE (12) clock hours of continuing education
1684 within each TWELVE (12)-month period beginning with the date of designation.
1685 The education shall include at least two (2) of the following topics and may
1686 include other topics related to the duties of the administrator.
- 1687 (4A) Any of the topics listed under the initial training requirements;
- 1688 (2B) Development and implementation of agency policies;
- 1689 (3C) Healthcare management;

- 1690 (4D) Ethics;
- 1691 (5E) Quality improvement;
- 1692 (6F) Risk assessment and management;
- 1693 (7G) Financial management;
- 1694 (8H) Skills for working with consumers, families, and other professional
1695 service providers, INCLUDING CONSIDERATIONS FOR SPECIAL POPULATIONS
1696 SERVED BY THE HCA;
- 1697 (9I) Community resources; AND
- 1698 (10J) Marketing.
- 1699 (H8) For an administrator or alternate administrator who was an administrator prior to
1700 June 1, 2009, but had HAS not served as an administrator for 180 days or more
1701 immediately preceding the date of designation, at least eight (8) of the TWELVE
1702 (12) clock hours within the first TWELVE (12) months after designation shall
1703 include the topics listed for first time administrators. The remaining four (4) clock
1704 hours shall include topics related to the duties of the administrator and include at
1705 least two (2) of the topics listed under continuing education. If a previous
1706 administrator has not been employed as such for two (2) years or more, the
1707 requirements for a first time administrator apply.

1708 7.76.5 Nursing or Healthcare Supervisor

- 1709 (A) The skilled nursing services furnished shall be under the supervision and direction of a
1710 physician or registered nurse who has at least two (2) years of nursing experience
1711 including one (1) year in home care or a closely related service. Other healthcare
1712 services shall be under the supervision and direction of a physician, registered nurse, or
1713 other licensed healthcare professional who has at least two (2) years healthcare
1714 experience in the field of supervision including one year experience in home care or a
1715 closely related service.
- 1716 (1) OTHER HEALTHCARE SERVICES SHALL BE UNDER THE SUPERVISION AND DIRECTION OF
1717 A PHYSICIAN, REGISTERED NURSE, OR OTHER LICENSED HEALTHCARE PROFESSIONAL
1718 WHO HAS AT LEAST TWO (2) YEARS OF HEALTHCARE EXPERIENCE IN THE FIELD OF
1719 SUPERVISION INCLUDING ONE (1) YEAR OF EXPERIENCE IN HOME CARE OR A CLOSELY
1720 RELATED SERVICE.
- 1721 (B) This person THE NURSING OR HEALTHCARE SUPERVISOR, or similarly qualified alternate, shall
1722 be available at all times during operating hours and participate in all activities relevant to
1723 the professional services furnished, including the development of qualifications and the
1724 assignment of personnel.
- 1725 (C) THE NURSING OR HEALTHCARE SUPERVISOR SHALL ENSURE OVERSIGHT OF ALL CONSUMER
1726 CARE SERVICES AND PERSONNEL, INCLUDING BUT NOT LIMITED TO:
- 1727 (1) MAKING CONSUMER AND PERSONNEL ASSIGNMENTS;
- 1728 (2) COORDINATING CONSUMER CARE;
- 1729 (3) COORDINATING REFERRALS;

Commented [BM121]: Not new language. Broken out from above.

- 1730 (4) ASSURING THAT CONSUMER NEEDS ARE CONTINUALLY ASSESSED; AND
- 1731 (5) ASSURING THE DEVELOPMENT, IMPLEMENTATION, AND UPDATES OF THE INDIVIDUALIZED
- 1732 PLAN OF CARE.
- 1733 7.86.6 Personnel
- 1734 (A) ~~Each employee and contracted staff~~ ALL PERSONNEL shall possess the education and
- 1735 experience to provide services in the homes of consumers in accordance with
- 1736 HCA agency policy, state practice acts, and professional standards of practice as set forth
- 1737 in this chapter.
- 1738 (B) ~~Licensed, registered, or certified healthcare providers shall, at a minimum, meet the~~
- 1739 ~~following requirements:~~
- 1740 (1) ~~Be qualified as a physician, pharmacist, physician assistant, nurse practitioner,~~
- 1741 ~~clinical social worker, social worker, physical therapist, physical therapist~~
- 1742 ~~assistant, occupational therapist, occupational therapist assistant, respiratory~~
- 1743 ~~therapist, registered nurse, licensed practical nurse, massage therapist, certified~~
- 1744 ~~nurse aide or other provider licensed, registered or certified by the Colorado~~
- 1745 ~~Department of Regulatory Agencies (DORA).~~
- 1746 (2) ~~Meet the requirements for license, certification, or registration set forth by DORA.~~
- 1747 (B) LICENSED, CERTIFIED, AND/OR REGISTERED PERSONNEL SHALL HAVE AN ACTIVE LICENSE,
- 1748 CERTIFICATION, OR REGISTRATION, ISSUED BY DORA WITH NO RESTRICTION THAT WOULD
- 1749 AFFECT THE ABILITY TO PERFORM REQUIRED DUTIES, AND SHALL PROVIDE SERVICES WITHIN
- 1750 THEIR SCOPE OF PRACTICE.
- 1751 (C) PERSONNEL Staff not LICENSED, CERTIFIED, OR REGISTERED BY regulated under DORA shall,
- 1752 at a minimum, meet the following requirements:
- 1753 (1) ~~A speech language pathologist shall:~~
- 1754 (a) ~~Possess a current certificate of clinical competence in speech pathology~~
- 1755 ~~or audiology granted by the American Speech-Language-Hearing~~
- 1756 ~~Association, or~~
- 1757 (b) ~~Meet the educational requirements for certification and be in the process~~
- 1758 ~~of accumulating the supervised experience required for certification.~~
- 1759 (2) RESERVED
- 1760 (3) RESERVED
- 1761 (4) ~~An X-ray technician shall:~~
- 1762 (a) ~~Have successfully completed a program of formal training in X-ray~~
- 1763 ~~technology of not less than 24 months in a school approved by the~~
- 1764 ~~Committee on Allied Health Education and Accreditation of the American~~
- 1765 ~~Medical Association or by the American Osteopathic Association; or~~
- 1766 (b) ~~Have earned a bachelor's or associate degree in radiological technology~~
- 1767 ~~from an accredited college or university.~~

Commented [BM122]: SOM §484.105(c) language added to clarify the oversight responsibilities of all consumer care services and personnel.

Commented [SA123]: Recommend striking and no longer listing out each profession.

Commented [BM124]: Non substantive change; language added to more accurately capture intent of regulation

Commented [BM125]: Strike here as the profession is now regulated under DORA via HB12-1303, which is codified in Article 43.7 of Title 12, C.R.S., and is known as the Speech-Language Pathology Practice Act

Commented [BM126]: Recommend striking after reviewing with stakeholders. Likely HCAs are using certified portable xray providers.

- 1768 (51) A phlebotomist shall:
- 1769 (a) Have successfully completed an approved phlebotomy training course or
1770 equivalent experience through previous employment; and
- 1771 (b) Have two (2) years of verifiable phlebotomy experience.
- 1772 (D) Ongoing training shall be provided to all direct care staff PERSONNEL. Training
1773 requirements shall be consistent with the program, services, and equipment THE HCA it
1774 provides, and are appropriate to the needs of the populations served.
- 1775 (1) Training shall consist of at least TWELVE (12) topics applicable to the
1776 HCA agency's care and services every TWELVE (12) months after the starting date
1777 of employment or calendar year as designated by HCA agency policy. The
1778 training requirement shall be prorated in accordance with the number of months
1779 the employee INDIVIDUAL was actively working for the agency. Training shall
1780 include, but is not limited to, the following items:
- 1781 (2) TRAINING SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING ITEMS:
- 1782 (a) Promoting consumer dignity, independence, self-determination, privacy,
1783 choice, and rights; including abuse and neglect prevention and reporting
1784 requirements;
- 1785 (b) Behavior management techniques;
- 1786 (c) Disaster and emergency procedures; and
- 1787 (d) Infection PREVENTION AND control including skis.
- 1788 (23) All training shall be documented BY THE HCA. Classroom type trainings shall be
1789 documented with the date of the training; starting and ending times; instructors
1790 and their qualifications; short description of content; and staff member's
1791 signature. On-line or self-study trainings shall be documented with information as
1792 to the content of the training, and the entity that offered or produced the training.
- 1793 (A) DOCUMENTATION OF TRAININGS SHALL INCLUDE: BE DOCUMENTED WITH THE
1794 DATE OF TRAINING; LENGTH OF TRAINING; ENTITY OR INSTRUCTOR(S) THAT
1795 OFFERED OR PRODUCED THE TRAINING; A SHORT DESCRIPTION OF THE
1796 CONTENT; AND STAFF MEMBER'S WRITTEN OR ELECTRONIC SIGNATURE OR
1797 PROOF OF ATTENDANCE.
- 1798 7.96.7 Initial and Comprehensive Assessments
- 1799 (A) Initial assessment visit
- 1800 (1) A registered nurse shall conduct an initial assessment visit to determine the
1801 immediate care and support needs of the consumer. The initial assessment visit
1802 shall be held either within FORTY-EIGHT (48) hours of referral, or within FORTY-
1803 EIGHT (48) hours of the consumer's return home, or on the ordered start-of-care
1804 date.
- 1805 (2) When an alternate professional healthcare service is the only service ordered,
1806 the initial assessment visit may be made by the appropriate healthcare
1807 professional.

Commented [BM127]: Not new language. Broken out from above.

Commented [BM128]: Not new requirement, language broken out from above and boiled down into one bullet.

1808 (3) THE INITIAL ASSESSMENT VISIT AND COMPREHENSIVE ASSESSMENT MAY BE CONDUCTED
1809 DURING THE SAME VISIT.

1810 (B) Comprehensive assessment of consumers

1811 (1) The HCA shall ~~accomplish~~ CONDUCT an individualized comprehensive
1812 assessment that accurately reflects each consumer's current health status and
1813 includes information that may be used to demonstrate the consumer's progress
1814 toward achievement of the desired outcomes.

1815 (2) The comprehensive assessment shall identify the consumer's need for home
1816 care and meet the consumer's medical, nursing, rehabilitative, social, and
1817 discharge planning needs.

1818 (3) The comprehensive assessment shall be completed in a timely manner,
1819 consistent with the consumer's immediate needs, but no later than five (5)
1820 calendar days after the start of care.

1821 (4) Except as otherwise indicated in this section, a registered nurse shall complete
1822 the comprehensive assessment.

1823 (5) When healthcare services other than nursing are ordered by the physician OR
1824 LICENSED INDEPENDENT PRACTITIONER, the primary professional healthcare worker
1825 shall complete the comprehensive assessment.

1826 (6) When nursing services are provided, the comprehensive assessment shall
1827 include a review of all medications the consumer is currently using in order to
1828 identify any potential adverse effects and drug reactions, including ineffective
1829 drug therapy, significant side effects, significant drug interactions, duplicate drug
1830 therapy, and noncompliance with drug therapy.

1831 (a) The HCA shall report any concerns to the attending physician OR
1832 LICENSED INDEPENDENT PRACTITIONER, and to the director of
1833 nursing NURSING OR HEALTHCARE SUPERVISOR, and these reports shall be
1834 acted upon.

1835 (7) For consumers receiving intermittent respite and waiver services that are not
1836 provided within a continuous SIXTY (60) day period, a comprehensive assessment
1837 shall be accomplished before reinitiating services rather than the minimum time
1838 frames set forth below.

1839 (A) The comprehensive assessment shall be updated and revised as frequently as
1840 the consumer's condition warrants due to a major decline or improvement in the
1841 consumer's health status. At a minimum, it shall be updated and revised:

1842 (a)(+) Every SIXTY (60) days beginning with the start-of-care date; and

1843 (b)(+) Within FORTY-EIGHT (48) hours of the consumer's return to the home from
1844 a hospital admission of TWENTY-FOUR (24) hours or more, for any reason
1845 other than diagnostic tests or, for non-certified agencies, as ordered by
1846 the physician or LICENSED INDEPENDENT PRACTITIONER intermediate care
1847 provider.

1848 (C) Provision of skilled services

Commented [SA129]: In definitions:
"Licensed independent practitioner" means an individual permitted by law and the HCA to independently diagnose, initiate, alter or terminate health care treatment within the scope of their license, and includes Advanced Practice Registered Nurses (APRN) and Physician Assistants.

Commented [BM130]: Moved this out a bullet as we identified that it does not need to come under (7) but be a separate bullet

1849 (1) The HCA shall have written policies regarding nurse delegation. The policy shall
 1850 delineate what tasks or procedures may or may not be delegated, the delegation
 1851 process, documentation, and how the delegatee shall be supervised in
 1852 accordance with 3 CCR 716-1, NURSING RULES AND REGULATIONS state
 1853 regulation. If the HCA prohibits NURSE delegation, the HCA shall have a
 1854 policy that specifies such prohibition.

1855 7.406.8 Plan of Care

1856 (A) CONSUMER Care follows a written plan of care established and periodically reviewed by
 1857 a physician or LICENSED INDEPENDENT PRACTITIONER, doctor of medicine, osteopathy, or
 1858 podiatric medicine. Care plans established by a nurse practitioner, physician assistant, or
 1859 other therapists within their scope of practice may be accepted by an HCA that is not
 1860 federally certified as a home care agency. For PACE participants, the interdisciplinary
 1861 team shall establish, follow, and periodically review the plan of care.

1862 (4B) The plan of care shall be developed in consultation with the HCA agency staff PERSONNEL
 1863 and covers all pertinent diagnoses, including mental status, types of services,
 1864 identification of any services furnished by other providers, and how those services are
 1865 coordinated, equipment required, frequency and duration of visits, prognosis,
 1866 rehabilitation potential, functional limitations, activities permitted, instructions for timely
 1867 discharge or referral, and any other appropriate items.

1868 (a1) The plan of care shall identify the consumer's continuing need for home care and
 1869 meet the consumer's medical, nursing, rehabilitative, social, and discharge
 1870 planning needs.

1871 (b2) The plan of care reflects the participation of the consumer to the extent possible.
 1872 The HCA communicates the plan of care to the consumer/caregiver OR
 1873 AUTHORIZED REPRESENTATIVE in a comprehensible way.

1874 (BC) If a physician or LICENSED INDEPENDENT PRACTITIONER intermediate care provider refers a
 1875 consumer under a plan of care that cannot be completed until after an evaluation visit,
 1876 the attending physician or LICENSED INDEPENDENT PRACTITIONER attending intermediate
 1877 care provider shall be consulted to approve additions or modifications to the original plan.
 1878 Orders for therapy services shall include the specific procedures and modalities to be
 1879 used and the amount, frequency, and duration. The therapist, other agency personnel
 1880 and external home care providers (where applicable) shall participate in developing the
 1881 plan of care.

1882 (CD) ORDERS FOR THERAPY SERVICES SHALL INCLUDE THE SPECIFIC PROCEDURES AND MODALITIES
 1883 TO BE USED AND THE AMOUNT, FREQUENCY, AND DURATION. THE THERAPIST, OTHER HCA
 1884 PERSONNEL, AND EXTERNAL HOME CARE PROVIDERS, WHERE APPLICABLE, SHALL PARTICIPATE
 1885 IN DEVELOPING THE PLAN OF CARE.

1886 (GDE) The total plan of care shall be reviewed IN ITS ENTIRETY by the attending physician or
 1887 LICENSED INDEPENDENT PRACTITIONER attending intermediate care provider and HCA
 1888 personnel as often as the severity of the consumer's condition requires, but at least once
 1889 every SIXTY (60) days or more frequently when there is a significant change in condition.

1890 (1) For consumers receiving intermittent respite and waiver services that are not
 1891 provided within a continuous SIXTY (60) day period, the time frame for review
 1892 begins upon the re-initiation of care.

Commented [BM131]: Moved this out a bullet as we identified that it does not need to come under (A) but be a separate bullet; renumbered list accordingly

Commented [BM132]: Not new language. Broken out from above.

1893 (DEF) LICENSED HCA Agency professional staff PERSONNEL shall promptly alert the physician or
 1894 LICENSED INDEPENDENT PRACTITIONER attending intermediate care provider to any changes
 1895 that suggest a need to alter the plan of care.

1896 (EFG) If person-to-person contact WITH THE PHYSICIAN OR LICENSED INDEPENDENT PRACTITIONER
 1897 OR THEIR DESIGNATED REPRESENTATIVE was not completed, or if awaiting a return
 1898 response, all contacts and interactions shall be documented. The HCA agency shall have
 1899 a written policy regarding how the HCA agency will intervene if the attending PHYSICIAN OR
 1900 LICENSED INDEPENDENT PRACTITIONER care provider cannot be contacted or does not
 1901 respond IN A timely MANNER.

1902 (GH) (4) All orders shall contain sufficient information to carry out the order, name of the
 1903 physician, OR LICENSED INDEPENDENT PRACTITIONER, intermediate care provider and, if
 1904 appropriate, representative conferring the order to the HCA.

1905 (HI) ANY PROGRAM OR SERVICE OFFERED BY THE HCA, DIRECTLY OR UNDER ARRANGEMENT, SHALL
 1906 BE PROVIDED IN ACCORDANCE WITH THE PLAN OF CARE AND HCA POLICY AND PROCEDURE.

1907 7.446.9 Medication Management

1908 (A) If the plan of care includes medication administration, medication management, or
 1909 medication set-up, there shall be documentation IN THE CONSUMER RECORD as to who is
 1910 responsible to monitor the medication supply, order refills, and ensure the timely delivery
 1911 of medications. There shall be evidence that the plan has been developed with input from
 1912 the consumer or authorized representative.

1913 (1) Medication review shall be documented when new medications are prescribed.

1914 (2) Medical MEDICATION review shall be documented periodically throughout the
 1915 episode of care to determine if the consumer has added or eliminated
 1916 medications or herbal products from the medication regime.

1917 (B) Drugs and treatments shall be administered by HCA agency staff PERSONNEL only as
 1918 ordered by the physician or LICENSED INDEPENDENT PRACTITIONER intermediate care
 1919 provider, and in accordance with professional standards of practice.

1920 (1) Influenza and pneumococcal polysaccharide Vaccines may be administered per
 1921 HCA agency policy, developed in consultation with a physician and after an
 1922 assessment for contraindications.

1923 (2) For consumers receiving medication administration services, a current
 1924 medication administration record shall be maintained AS PART OF THE CONSUMER
 1925 RECORD.

1926 (3) The PERSONNEL health professional administering medication(s) shall monitor for
 1927 effectiveness, interactions, and adverse effects.

1928 (C) If controlled drugs are being administered by the HCA agency, there shall be a policy
 1929 regarding how the drugs will be administered and monitored.

1930 (1) HCA Agencies shall have a written policy stating how controlled drugs will be
 1931 monitored if HCA agency staff PERSONNEL transports the drugs from the
 1932 pharmacy to the consumer.

1933 7.426.10 CARE Coordination

Commented [BM133]: Will put any additional information related to acceptable contact with authorized representatives or the LIP in guidance as needed.

Commented [BM134]: Moved this language from General requirements section.

- 1934 (A) Care coordination shall be demonstrated for each consumer at least every **SIXTY (60)**
 1935 days for cases where there is more than one **(1)** agency sharing the provision of the
 1936 same home health services. The minutes of these case conferences shall reflect
 1937 discussion and input by all the disciplines providing care to the consumer.
- 1938 (B) The HCA shall be responsible for the coordination of consumer services both with
 1939 internal ~~staff~~ **PERSONNEL** and known external services providing care and services to the
 1940 same consumer.
- 1941 (C) **ALL PERSONNEL PROVIDING CARE ON BEHALF OF THE HCA SHALL** ~~personnel furnishing~~
 1942 ~~services maintain~~ **COMMUNICATION** ~~liaison~~ to ensure that their efforts are coordinated
 1943 effectively and support the objectives outlined in the plan of care and as delineated
 1944 through outside home care services.
- 1945 (D) The clinical record, care coordination notes, or minutes of case conferences establish
 1946 that effective interchange, reporting, and coordination of consumer care do occur.
- 1947 (E) **THE HCA SHALL PREPARE AA** written summary report ~~for each consumer shall be~~
 1948 ~~documented and WHICH SHALL BE~~ sent to the attending primary care provider ~~as~~
 1949 ~~appropriate, at least every SIXTY (60) days. THIS REPORT IS ONLY REQUIRED FOR~~
 1950 ~~CONSUMERS WHO EXPERIENCED A CHANGE IN STATUS OR NEEDS THAT NECESSITATED A~~
 1951 ~~CHANGE IN THE PLAN OF CARE DURING THE SIXTY (60)-DAY PERIOD.~~
- 1952 **7.436.11** Extended ~~C~~care
- 1953 (A) Extended care is defined as a total of six (6) or more hours of home health services
 1954 provided in a **TWENTY-FOUR (24)**-hour period by a licensed agency that provides skilled
 1955 health services on a continuous basis.
- 1956 ~~(A)(B)~~ The ~~HCA~~agency shall have a contingency plan regarding how the ~~case~~**CARE** is managed
 1957 if ~~at~~ the scheduled ~~PERSONNEL~~employee is ~~unable to~~ **CANNOT PROVIDE CARE** ~~staff the case.~~
- 1958 ~~(B)(C)~~ A communication record shall also be ~~maintained~~**AVAILABLE** in the home if a consumer is
 1959 receiving extended care. ~~from a licensed or registered nurse.~~
- 1960 (1) The record shall contain:
- 1961 (a) The current plan of ~~CARE~~ **treatment**;
- 1962 (b) Notes containing consumer status and continuing needs;
- 1963 (c) ~~THE M~~medication administration record; and
- 1964 (d) Any other information deemed necessary by the ~~HCA~~licensed agency.
- 1965 (2) If nurse aide service is the only service providing extended care, a home
 1966 communication record is not required. ~~Written instructions shall be maintained in~~
 1967 ~~the home and in the permanent record.~~
- 1968 (A) **WRITTEN INSTRUCTIONS SHALL BE MAINTAINED IN THE HOME AND IN THE**
 1969 **PERMANENT RECORD.**
- 1970 ~~(C)(D)~~ The ~~HCA~~agency shall have an orientation plan for the ~~PERSONNEL~~ staff providing the care
 1971 to the consumers. Since extended care cases may involve highly technical services, this

Commented [BM135]: Not new language. Broken out from above.

1972 plan shall reflect how the HCA agency ensures that the individuals providing the extended
1973 care are qualified to provide these types of services.

1974 ~~(D)~~(E) Contracting for extended care services

1975 (1) A licensed HCA may contract with another entity to provide extended care in the
1976 licensed HCA agency's service area provided that administration, care, and
1977 supervision down to the consumer care level are ultimately the responsibility of
1978 the primary HCA agency.

1979 (2) The contract shall be in conformance with PART section 6.185.9(F) of this
1980 chapter.

1981 (3) The contracted ~~staff~~ PERSONNEL shall have completed the HCA agency orientation
1982 and competency EVALUATION appraisal for provisions of care and services for the
1983 extended care consumer. ~~Staff credentialing, orientation and competency~~
1984 ~~appraisal documentation shall be kept at the primary agency.~~

1985 (A) DOCUMENTATION OF PERSONNEL QUALIFICATIONS, ORIENTATION, AND
1986 COMPETENCY EVALUATION SHALL BE KEPT AT THE PRIMARY HCA.

Commented [BM136]: Not new language. Broken out from above, with some slight modifications.

1987 ~~(E)~~(F) Prior to withdrawing skilled nursing or nurse aide services for an extended care
1988 consumer, the HCA shall:

1989 (1) Show continuing and documented efforts to resolve conflicts unless the safety of
1990 PERSONNEL staff is placed at immediate risk;

1991 (2) Provide evidence that ongoing efforts were made to recruit PERSONNEL staff or
1992 place THE CONSUMER with another HCA agency; and

1993 (3) Give the consumer or authorized representative FIFTEEN (15)-business days'
1994 notice of the intent to discharge the consumer unless staff or consumer safety is
1995 at immediate risk. ~~The HCA shall have evidence that such notice was delivered~~
1996 ~~in person or by certified mail.~~

1997 (A) THE HCA SHALL MAINTAIN EVIDENCE THAT SUCH NOTICE WAS DELIVERED IN
1998 PERSON OR BY CERTIFIED MAIL.

Commented [BM137]: Not new language. Broken out from above.

1999 7.446.12 Skilled Nursing Services

2000 (A) The registered nurse shall be responsible for the following:

2001 (1) ~~CONDUCTING THE INITIAL ASSESSMENT AND COMPREHENSIVE ASSESSMENT~~ The
2002 ~~evaluation visit;~~

2003 (2) Regularly reevaluating the consumer's nursing needs;

2004 (3) Initiating the plan of care and necessary revisions;

2005 (4) Furnishing those services requiring substantial and specialized nursing skill;

2006 (5) Initiating appropriate preventive and rehabilitative nursing procedures;

2007 (6) Preparing clinical notes, coordinating services, and informing the physician and
2008 other personnel of changes in the consumer's condition and needs;

- 2009 (7) Counseling the consumer and family in meeting nursing and related needs; and
- 2010 (8) Participating in in-service programs, supervising, and teaching other nursing
2011 personnel.
- 2012 (B) The licensed practical nurse shall be responsible for the following:
- 2013 (1) ~~PERFORMING NURSING SERVICES IN ACCORDANCE WITH THEIR SCOPE OF PRACTICE~~
2014 ~~AND AS ASSIGNED BY THE PHYSICIAN, LICENSED INDEPENDENT PRACTITIONER, AND/OR~~
2015 ~~REGISTERED NURSE;~~
- 2016 (12) Furnishing services in accordance with HCA agency policies;
- 2017 (23) Preparing clinical notes; AND
- 2018 (3) ~~Assisting the physician, intermediate care provider and registered nurse in~~
2019 ~~performing specialized procedures.~~
- 2020 (4) ~~Preparing equipment and materials for treatments, observing aseptic technique~~
2021 ~~as required, and~~
- 2022 (54) Assisting the consumer in learning appropriate self-care techniques.
- 2023 7.456.13 Nurse Aide Services
- 2024 (A) The HCA agency shall select nurse aides on the basis of such factors as the ability to
2025 read, write, carry out directions, effectively communicate to demonstrate competency in
2026 the SAFE AND EFFECTIVE provision of care and services safely and effectively, and treat
2027 consumers with dignity and respect to person and property.
- 2028 (B) The HCA agency shall ensure that each nurse aide it employs is certified by DORA the
2029 Colorado Department of Regulatory Agencies within four (4) months of starting
2030 employment and that certification remains current. Each aide that provides care and
2031 services before PRIOR TO certification shall be supervised in the home by direct
2032 observation at least weekly for the first month of employment and every two (2) weeks
2033 thereafter until certification is obtained.
- 2034 (1) HCAs THAT EMPLOY NURSE AIDES AWAITING CERTIFICATION SHALL DO SO IN
2035 ACCORDANCE WITH SECTION 12-255-214, C.R.S.
- 2036 (C) The HCA agency shall complete a competency assessment with direct observation of
2037 each nurse aide before assignment, in accordance with PART 6.13(E) section 7.16 of
2038 this chapter.
- 2039 (D) For all consumers who are receiving skilled care and need nurse aide services, the
2040 supervising healthcare professional shall, during supervisory visits, accomplish the
2041 following:
- 2042 (1) Obtain the consumer's input, or that of the consumer's authorized representative,
2043 regarding the nurse aide assignment form, including all tasks to be performed
2044 during each scheduled time period.
- 2045 (a) Details such as, but not limited to, housekeeping duties and standby
2046 assistance shall be negotiated and included on the nurse aide
2047 assignment form so that all obligations and expectations are clear.

Commented [BM138]: Created a broader requirement and modified and integrated original (3) into this point

Commented [BM139]: Added reference to statute:

...(d) A person who is directly employed by a medical facility while acting within the scope and course of employment for the first four consecutive months of the person's employment at the medical facility if the employment is part of an approved training program prior to certification and the certification is not by endorsement pursuant to section 12-255-204...

Commented [BM140]: Updated reference

- 2048 (b) The nurse aide assignment form shall contain information regarding
2049 special functional limitations and needs, safety considerations, special
2050 diets, special equipment, and any other information that is pertinent to
2051 the care that will be given by the NURSE aide.
- 2052 (c) The HCA shall ensure that the consumer or the consumer's authorized
2053 representative approves and signs the form, AND is provided a copy at
2054 the beginning of services, and at least ANNUALLY. ~~once per year~~
2055 ~~thereafter.~~
- 2056 (d) Provide each consumer and/or the consumer's authorized representative
2057 with a new copy of the consumer rights form and explain those rights at
2058 least annually.
- 2059 (e) If nurse aide services are provided to a consumer who is receiving in-
2060 home care by a ~~NURSE AIDE~~ health professional, the supervising health
2061 care professional, in accordance with the professional's scope of practice
2062 and state and federal law, shall make A ~~an on-site~~ supervisory visit ~~NO~~
2063 ~~LESS THAN EVERY TWO (2) WEEKS TO SUPERVISE THE NURSE AIDE SERVICES.~~
2064 ~~THE VISIT SHALL BE CONDUCTED EITHER IN~~ to the consumer's home ~~OR VIA~~
2065 ~~TELEHEALTH, IN ACCORDANCE WITH THE REQUIREMENTS IN PART 6.17(A)(1).~~
2066 ~~no less frequently than every two (2) weeks to supervise the nurse aide~~
2067 ~~SERVICES. Direct observation of care being provided by the nurse aide~~
2068 ~~shall occur at least every 60 days. More frequent direct supervision shall~~
2069 ~~occur if there are adverse changes in the consumer's condition,~~
2070 ~~complaints received associated with the provision of care by an aide,~~
2071 ~~supervision requested by the nurse aide or consumer for specific issues~~
2072 ~~or other matters concerning the provisions of care by the nurse aide.~~
- 2073 (i) ~~DIRECT OBSERVATION OF CARE BEING PROVIDED BY THE NURSE AIDE~~
2074 ~~SHALL OCCUR AT LEAST EVERY SIXTY (60) DAYS IN THE CONSUMER'S~~
2075 ~~HOME.~~
- 2076 (ii) ~~MORE FREQUENT DIRECT SUPERVISION SHALL OCCUR IF THERE ARE~~
2077 ~~ADVERSE CHANGES IN THE CONSUMER'S CONDITION, COMPLAINTS~~
2078 ~~RECEIVED ASSOCIATED WITH THE PROVISION OF CARE BY A NURSE~~
2079 ~~AIDE, SUPERVISION REQUESTED BY THE NURSE AIDE OR CONSUMER~~
2080 ~~FOR SPECIFIC ISSUES, OR OTHER MATTERS CONCERNING THE~~
2081 ~~PROVISIONS OF CARE BY THE NURSE AIDE.~~
- 2082 (f) If nurse aide services are provided to a consumer who is not receiving in-
2083 home care by a health professional, a supervisory visit with the nurse
2084 aide present at the consumer's home shall occur no less frequently than
2085 every SIXTY (60) days. ~~More frequent direct supervision shall occur if~~
2086 ~~there are adverse changes in the consumer's condition, complaints~~
2087 ~~received associated with the provision of care by an aide, supervision~~
2088 ~~requested by the nurse aide or consumer for specific issues, or other~~
2089 ~~matters concerning the provisions of care by the nurse aide.~~
- 2090 (i) ~~MORE FREQUENT DIRECT SUPERVISION SHALL OCCUR IF THERE ARE~~
2091 ~~ADVERSE CHANGES IN THE CONSUMER'S CONDITION, COMPLAINTS~~
2092 ~~RECEIVED ASSOCIATED WITH THE PROVISION OF CARE BY A NURSE~~
2093 ~~AIDE, SUPERVISION REQUESTED BY THE NURSE AIDE OR CONSUMER~~
2094 ~~FOR SPECIFIC ISSUES, OR OTHER MATTERS CONCERNING THE~~
2095 ~~PROVISIONS OF CARE BY THE NURSE AIDE.~~

Commented [BM141]: Reverted back to original language based on stakeholder feedback after the hearing request

Commented [BM142]: Removed the on-site requirement and added language around telehealth supervision at proposed 6.17

Commented [BM143]: Not new language. Broken out from above.

Commented [BM144]: Now new language. Broken out from above.

- 2096 7-16 (E) Nurse aide training and orientation
- 2097 (A1) The HCA shall ensure that skills learned or tested elsewhere can be transferred
 2098 successfully to the care of the consumer in his/her THEIR place of residence. This
 2099 review of skills MAY BE PERFORMED could be done when the nurse installs an aide
 2100 into a new consumer care situation, during a supervisory visit, or as part of the
 2101 annual performance review. A mannequin may not be used for this evaluation. A
 2102 PSEUDO-PATIENT MAY BE USED FOR THIS EVALUATION.
- 2103 (B2) If the HCA's admission policies and the case-mix of HCA consumers demand
 2104 that the NURSE aide care for individuals whose personal care and basic nursing or
 2105 therapy needs require more complex training than the minimum required in the
 2106 regulation, the HCA shall document how these additional skills are taught and
 2107 validated.
- 2108 (C3) The HCA shall establish a process for standardized, step-by-step observation
 2109 and evaluation of nurse aide competency in the following subject areas prior to
 2110 the assignment of tasks requiring direct observation of items (3c), (9i), (40J), and
 2111 (44k) of this paragraph (C3).
- 2112 (4A) Communications skills;
- 2113 (2B) Observation, reporting, and documentation of consumer status and the
 2114 care or service furnished;
- 2115 (3C) Reading and recording temperature, pulse, and respiration;
- 2116 (4D) Basic infection control procedures;
- 2117 (5E) Basic elements of body functioning and changes in body function that
 2118 shall be reported to an NURSE aide's supervisor;
- 2119 (6F) Maintenance of a clean, safe, and healthy environment;
- 2120 (7G) Recognizing emergencies and knowledge of emergency procedures;
- 2121 (8H) The physical, emotional, and developmental needs of, and methods to
 2122 work with, the populations served by the HCA including the need for
 2123 respect of the consumer, his or her THEIR privacy, and property;
- 2124 (9i) Appropriate and safe techniques in personal hygiene and grooming that
 2125 include: BATHING, INCLUDING BED/SPONGE, TUB, AND SHOWER; SHAMPOO,
 2126 INCLUDING SINK, TUB, AND BED; NAIL AND SKIN CARE; ORAL HYGIENE; AND
 2127 TOILETING AND ELIMINATION;
- 2128 (a) Bathing, INCLUDING BED/SPONGE, TUB, AND SHOWER;
- 2129 (i) Bed/sponge,
- 2130 (ii) Tub, and
- 2131 (iii) Shower,
- 2132 (b) Shampoo, INCLUDING SINK, TUB, AND BED;

Commented [BM145]: Moved under Nurse Aide Services subsection

Commented [BM146]: CMS requirement is for competency to be evaluated using a patient or a pseudo-patient. Added pseudo-patient to definitions.

Commented [BM147]: Struck language in the bullets and moved them into (i) in order to simplify heading levels

- 2133 (i) Sink,
- 2134 (ii) Tub, and
- 2135 (iii) Bed,
- 2136 (ciii) Nail and skin care;
- 2137 (dii) Oral hygiene; and
- 2138 (e) Toileting and elimination;
- 2139 (10J) Safe transfer techniques and ambulation;
- 2140 (11K) Normal range of motion and positioning; and
- 2141 (12L) Adequate nutrition and fluid intake.
- 2142 (D4) Written assignment and instructions for the nurse aide shall be prepared by the
- 2143 registered nurse or other appropriate professional who is responsible for the
- 2144 supervision of the nurse aide.
- 2145 (1A) The nurse aide SHALL BE assigned and instructed to provide only those
- 2146 services the aide is permitted to perform under state law and deemed
- 2147 competent to perform.
- 2148 (2B) The written assignment reflects the consumer's plan of care orders.
- 2149 (3C) The written instructions of the assignment shall consider the skills of the
- 2150 nurse aide, the amount and kind of supervision needed, and the specific
- 2151 nursing or therapy needs of the consumer.
- 2152 (a) The written instructions shall detail the procedures for the
- 2153 consumer's unique care needs.
- 2154 (bii) The written instructions shall identify when the nurse aide should
- 2155 report to the supervising professional.
- 2156 (4D) The written assignment and instructions shall be reviewed every SIXTY
- 2157 (60) days or more frequently as changes in the consumer's status and
- 2158 needs occur.
- 2159 7.176.14 Therapy Sservices
- 2160 (A) Any therapy services offered by the HCA, directly or under arrangement, shall be
- 2161 provided by a qualified therapist or by a qualified therapy assistant under the supervision
- 2162 of a qualified therapist and in accordance with the plan of care. The qualified therapist
- 2163 assists the physician or intermediate care provider in evaluating level of function, helps
- 2164 develop the plan of care (revising it as necessary), prepares clinical notes, advises and
- 2165 consults with the family and other agency personnel, and participates in in-service
- 2166 programs.
- 2167 (B) THE QUALIFIED THERAPIST SHALL ASSIST THE PHYSICIAN OR LICENSED INDEPENDENT
- 2168 PRACTITIONER IN EVALUATING LEVEL OF FUNCTION, HELP DEVELOP THE PLAN OF CARE (REVISING

Commented [SA148]: Moved to (B) below

- 2169 IT AS NECESSARY), PREPARE CLINICAL NOTES, ADVISE AND CONSULT WITH THE FAMILY AND
2170 OTHER AGENCY PERSONNEL, AND PARTICIPATE IN IN-SERVICE PROGRAMS.
- 2171 (BC) Supervision of therapy assistants
- 2172 (1) A physical therapist assistant, occupational therapy assistant, or respiratory
2173 therapy assistant performs services directed from a written plan of care,
2174 delegated, and supervised by a qualified therapist, assists in preparing clinical
2175 notes and progress reports, participates in educating the consumer and family,
2176 and participates in in-service programs. Onsite supervision shall occur in
2177 accordance with the agency's policies and procedures, plan of care, and
2178 professional standards of practice.
- 2179 7.486.15 Medical Ssocial Sservices
- 2180 (A) ~~If the agency furnishes medical social services, those services shall be given by a~~
2181 ~~qualified social worker in accordance with the plan of care.~~ ANY MEDICAL SOCIAL SERVICES
2182 OFFERED BY THE HCA, DIRECTLY OR UNDER ARRANGEMENT, SHALL BE PROVIDED BY A
2183 QUALIFIED SOCIAL WORKER IN ACCORDANCE WITH THE PLAN OF CARE.
- 2184 (B) The social worker shall be responsible for the following:
- 2185 (1) Assisting the physician, or LICENSED INDEPENDENT PRACTITIONER intermediate care
2186 provider and other team members in understanding the significant social and
2187 emotional factors related to the health problems;
- 2188 (2) Participating in the development of the plan of care;
- 2189 (3) Preparing clinical notes;
- 2190 (4) Working with the family;
- 2191 (5) Using CONNECTING THE CONSUMER WITH appropriate community resources;
- 2192 (6) Participating in discharge planning and in-service programs; and
- 2193 (7) Acting as a consultant to other agency HCA personnel.
- 2194 7.496.16 Other Hhealthcare Sservices
- 2195 (A) Any healthcare services offered by the HCA, directly or under arrangement, are given by
2196 a qualified healthcare professional or by a qualified healthcare professional assistant
2197 under the supervision of a qualified healthcare professional and in accordance with the
2198 plan of care. The qualified healthcare professional assists the physician or intermediate
2199 care provider in evaluating the needs of the consumer, helps develop the plan of care
2200 (revising it as necessary), prepares clinical notes, advises and consults with the family
2201 and other agency personnel, and participates in in-service programs.
- 2202 (B) THE QUALIFIED HEALTHCARE PROFESSIONAL ASSISTS THE PHYSICIAN OR LICENSED
2203 INDEPENDENT PRACTITIONER IN EVALUATING THE NEEDS OF THE CONSUMER, HELPS DEVELOP
2204 THE PLAN OF CARE (REVISING IT AS NECESSARY), PREPARES CLINICAL NOTES, ADVISES AND
2205 CONSULTS WITH THE FAMILY AND OTHER AGENCY PERSONNEL, AND PARTICIPATES IN IN-SERVICE
2206 PROGRAMS.
- 2207 (BC) Supervision of assistants

Commented [BM149]: Moved to 6.17(A)(2)(a) in telehealth supervisory visits

Commented [BM150]: Recommended reword to be consistent with therapy & other healthcare services.

2208 (1) An assistant to the healthcare professional performs services directed from a
 2209 written plan of care, delegated, and supervised by a qualified health professional,
 2210 assists in preparing clinical notes and progress reports, and participates in
 2211 educating the consumer and family, and participates in in-service programs.
 2212 ~~Onsite supervision shall occur in accordance with policy and procedure, the plan~~
 2213 ~~of care and professional standards of practice.~~

Commented [BM151]: Moved to 6.17(A)(3)(a) in telehealth supervisory visits

2214 6.17 TELEHEALTH SUPERVISORY VISITS

2215 (A) THE HCA MAY CONDUCT SUPERVISORY VISITS USING TELEHEALTH FOR THE FOLLOWING
 2216 SERVICES, SO LONG AS THE HCA CONTINUES TO ENSURE CONSUMER CARE AND TREATMENT
 2217 ARE DELIVERED IN ACCORDANCE WITH A PLAN OF CARE THAT ADDRESSES THE CONSUMER'S
 2218 STATUS AND NEEDS.

2219 (1) FOR NURSE AIDE SERVICES, THE SUPERVISING HEALTHCARE PROFESSIONAL MAY
 2220 EVALUATE THE DELIVERY OF CARE AND SERVICES REQUIRED EVERY TWO (2) WEEKS AT
 2221 PART 6.13(D)(1)(E) THROUGH AN INTERACTIVE AUDIOVISUAL CONNECTION WITH THE
 2222 CONSUMER. THE RESULTS OF THE SUPERVISORY VISIT MUST BE DOCUMENTED BY THE
 2223 SUPERVISING HEALTHCARE PROFESSIONAL.

Commented [BM152]: Guidance: must have audiovisual connection or continue to do in person; language around our preference at the Dept? Continue in person?

2224 (A) AN IN-PERSON SUPERVISORY VISIT WITH THE NURSE AIDE AND CONSUMER IS
 2225 REQUIRED AT LEAST EVERY SIXTY (60) DAYS IF NURSE AIDE SERVICES ARE
 2226 PROVIDED TO A CONSUMER WHO IS RECEIVING IN-HOME CARE BY A NURSE
 2227 AIDE.

2228 (2) FOR THERAPY SERVICES, SUCH AS PHYSICAL THERAPY, OCCUPATIONAL THERAPY, AND
 2229 SPEECH THERAPY, SUPERVISION OF ASSISTANTS REQUIRED AT PART 6.14(C) MAY BE
 2230 PROVIDED THROUGH AN INTERACTIVE AUDIOVISUAL CONNECTION AND IN ACCORDANCE
 2231 WITH ALL APPLICABLE STATE LAWS AND REGULATIONS.

2232 (A) AN IN-PERSON SUPERVISORY VISIT SHALL OCCUR IN ACCORDANCE WITH THE
 2233 HCA'S POLICIES AND PROCEDURES, THE PLAN OF CARE, AND PROFESSIONAL
 2234 STANDARDS OF PRACTICE.

Commented [BM153]: Not new language; moved from therapy services.

2235 (3) FOR OTHER HEALTHCARE SERVICES, SUPERVISION OF ASSISTANTS REQUIRED AT PART
 2236 6.16(C) MAY BE PROVIDED THROUGH AN INTERACTIVE AUDIOVISUAL CONNECTION AND
 2237 IN ACCORDANCE WITH ALL APPLICABLE STATE LAWS AND REGULATIONS.

2238 (A) AN IN-PERSON SUPERVISORY VISIT SHALL OCCUR IN ACCORDANCE WITH THE
 2239 HCA'S POLICIES AND PROCEDURES, THE PLAN OF CARE, AND PROFESSIONAL
 2240 STANDARDS OF PRACTICE.

Commented [BM154]: Not new language; moved from other healthcare services.

2241 (B) AN IN-PERSON SUPERVISORY VISIT IS REQUIRED TO EVALUATE CONSUMER COMPLAINTS RELATED
 2242 TO THE DELIVERY OF CARE WHEN SUCH CONCERNS CANNOT BE SUCCESSFULLY ADDRESSED
 2243 REMOTELY THROUGH AN INTERACTIVE AUDIOVISUAL CONNECTION.

2244 (C) ALL OTHER GENERAL REQUIREMENTS FOR SUPERVISORY VISITS, SUCH AS DOCUMENTATION AND
 2245 MEETING THE SAME STANDARD OF CARE, MUST BE MET.

2246 6.18 CLINICAL RECORD

2247 (A) IN ADDITION TO THE REQUIREMENTS IN PART 5.15, AN HCA PROVIDING SKILLED CARE SHALL
 2248 COMPLY WITH THE FOLLOWING REQUIREMENTS:

2249 (1) THE INITIAL AND COMPREHENSIVE ASSESSMENTS SHALL BE DOCUMENTED IN THE
 2250 CONSUMER RECORD AND SHALL INCLUDE THE CONSUMER'S CURRENT COMPREHENSIVE
 2251 ASSESSMENT, INCLUDING ALL OF THE ASSESSMENTS FROM THE MOST RECENT HCA
 2252 ADMISSION, CLINICAL NOTES, PLANS OF CARE, AND PHYSICIAN OR LICENSED
 2253 INDEPENDENT PRACTITIONER ORDERS.

Commented [BM155]: SOM language

2254 (2) THE RECORD SHALL INCLUDE ALL INTERVENTIONS, INCLUDING MEDICATION
 2255 ADMINISTRATION, TREATMENTS, AND SERVICES, AND RESPONSES TO THOSE
 2256 INTERVENTIONS.

Commented [SA156]: SOM language

2257 **PART**Section 87. NON-MEDICAL/PERSONAL CARE

2258 87.1 Governing bBody

2259 (A) ~~Each agency HCA shall have a governing body having legal authority and responsibility~~
 2260 ~~for the conduct of the agency HCA. At least one (1) member shall have knowledge of~~
 2261 ~~agency HCA operations.~~

2262 (A) AN HCA MAY CHOOSE TO CONVENE A GOVERNING BODY THAT SHALL HAVE LEGAL AUTHORITY
 2263 AND RESPONSIBILITY FOR THE CONDUCT OF THE HCA. IF AN HCA DOES NOT CONVENE A
 2264 GOVERNING BODY, THE HCA SHALL DESIGNATE AN INDIVIDUAL WHO SHALL HAVE RESPONSIBILITY
 2265 FOR ALL TASKS AS SET FORTH IN THIS PART 7.1.

2266 (B) AT LEAST ONE (1) MEMBER OF THE GOVERNING BODY OR DESIGNEE SHALL HAVE KNOWLEDGE OF
 2267 HCA OPERATIONS.

Commented [BM157]: Not new language. Broken out from above.

2268 (BC) For the purposes of this section, the governing body OR DESIGNEE shall:

2269 (1) Have bylaws or A GOVERNING DOCUMENT the equivalent, which THAT SHALL SPECIFY
 2270 THE PROGRAMS AND SERVICES OFFERED BY THE HCA AND be reviewed and revised
 2271 as needed;

Commented [BM158]: Combined and modified (1) and (2)

2272 (2) ~~The bylaws or the equivalent shall specify the objectives of the agency;~~

2273 (3) Designate and employ an agency HCA manager;

2274 (4) ~~Develop and adopt, review annually, and revise as needed, policies and~~
 2275 ~~procedures for the operation and administration of the agency HCA, TO BE~~
 2276 ~~REVIEWED ANNUALLY AND REVISED AS NEEDED;~~

2277 (4) ENSURE ANY PROGRAM OR SERVICE OFFERED BY THE HCA, DIRECTLY OR UNDER
 2278 ARRANGEMENT, SHALL BE PROVIDED IN ACCORDANCE WITH THE SERVICE PLAN AND
 2279 HCA POLICY AND PROCEDURE;

2280 (5) Review the operations of the agency HCA at least annually;

2281 (6) Keep minutes of all meetings;

2282 (7) Provide and maintain a fixed office location, that provides for consumer
 2283 confidentiality and a safe working environment; and

2284 (8) Organize services furnished, administrative control, and lines of authority for the
 2285 delegation of responsibility down to the consumer care level that are clearly set
 2286 forth in writing and are readily identifiable.

2287 8.2 Administration

2288 (A) ~~The agency shall have written administrative policies and procedures to ensure safe and~~
 2289 ~~adequate care of the consumer.~~

2290 (D) AGENCY EVALUATION

Commented [BM159]: Modified from skilled care; will need guidance on this requirement for Class B HCAs

2291 (1) THE HCA'S GOVERNING BODY OR DESIGNEE SHALL CONDUCT A COMPREHENSIVE
 2292 EVALUATION OF THE HCA'S TOTAL OPERATION AT LEAST ANNUALLY.

2293 (2) THE EVALUATION SHALL ASSURE THE APPROPRIATENESS AND QUALITY OF THE HCA'S
 2294 SERVICES WITH FINDINGS USED TO VERIFY POLICY IMPLEMENTATION, TO IDENTIFY
 2295 PROBLEMS, AND TO ESTABLISH PROBLEM RESOLUTION AND POLICY REVISION AS
 2296 NECESSARY, AND SHALL INCLUDE ANY FINDINGS OR IMPROVEMENT STRATEGIES
 2297 IDENTIFIED BY THE HCA'S QUALITY MANAGEMENT PROGRAM REQUIRED IN PART 5.12.

2298 (3) THE HCA SHALL IMPLEMENT A METHOD FOR ONGOING PROCESS IMPROVEMENT AND
 2299 POLICY AND ADMINISTRATIVE REVIEW, WHICH INCLUDES A REVIEW OF THE SCOPE OF
 2300 SERVICES OFFERED, ARRANGEMENTS FOR SERVICES WITH OTHER AGENCIES OR
 2301 INDIVIDUALS, ADMISSION AND DISCHARGE POLICIES, SUPERVISION AND SERVICE PLAN,
 2302 URGENT CONSUMER CARE, SERVICE RECORDS, AND PERSONNEL QUALIFICATIONS.

Commented [BM160]: Slight modifications from Skilled Care to reflect non-medical

2303 (A) THE HCA SHALL IMPLEMENT AN ON-GOING MECHANISM FOR CONSUMER
 2304 INVOLVEMENT TO PROVIDE INPUT AND COMMENT REGARDING SERVICES
 2305 PROVIDED BY THE HCA IN ACCORDANCE WITH HCA POLICY.

2306 (B) ALL FINDINGS FROM THE POLICY AND ADMINISTRATIVE REVIEW AND CONSUMER
 2307 INPUT AND COMMENTARY SHALL BE PROVIDED TO THE GOVERNING BODY AT
 2308 LEAST ANNUALLY TO IDENTIFY TRENDS OR ISSUES REQUIRING CONSIDERATION.

2309 (4) IN EVALUATING EACH ASPECT OF ITS TOTAL PROGRAM, THE HCA SHALL CONSIDER
 2310 FOUR (4) MAIN CRITERIA:

2311 (A) APPROPRIATENESS - ASSURANCE THAT THE AREA BEING EVALUATED
 2312 ADDRESSES EXISTING AND/OR POTENTIAL PROBLEMS.

2313 (B) ADEQUACY - A DETERMINATION AS TO WHETHER THE HCA HAS THE CAPACITY
 2314 TO OVERCOME OR MINIMIZE EXISTING OR POTENTIAL PROBLEMS.

2315 (C) EFFECTIVENESS - THE SERVICES OFFERED ACCOMPLISH THE OBJECTIVES OF
 2316 THE HCA AND ANTICIPATED CONSUMER OUTCOMES.

2317 (D) EFFICIENCY - WHETHER THERE IS A MINIMAL EXPENDITURE OF RESOURCES BY
 2318 THE HCA TO ACHIEVE DESIRED GOALS AND ANTICIPATED CONSUMER
 2319 OUTCOMES.

2320 (5) DOCUMENTATION OF THE ANNUAL EVALUATION SHALL INCLUDE THE NAMES AND TITLES
 2321 OF THE PERSONS CARRYING OUT THE EVALUATION, THE CRITERIA AND METHODS USED
 2322 TO ACCOMPLISH IT, AND ANY ACTION TAKEN BY THE HCA AS A RESULT OF ITS FINDINGS.

2323 (6) APPROPRIATE QUALIFIED INDIVIDUALS REPRESENTING THE PROGRAMS AND SERVICES
 2324 OFFERED BY THE HCA SHALL EVALUATE THE HCA'S CONSUMER RECORDS ON AN
 2325 ONGOING BASIS, BUT NO LESS THAN QUARTERLY.

2326 (A) THE EVALUATION SHALL INCLUDE A REVIEW OF SAMPLE ACTIVE AND CLOSED
 2327 CONSUMER RECORDS TO ENSURE THAT HCA POLICIES ARE FOLLOWED IN
 2328 PROVIDING SERVICES, BOTH DIRECTLY AND UNDER ARRANGEMENT, AND TO
 2329 ASSURE THAT THE QUALITY OF SERVICE IS SATISFACTORY AND APPROPRIATE.
 2330 THE REVIEW SHALL CONSIST OF A REPRESENTATIVE SAMPLE OF ALL HOME
 2331 CARE SERVICES PROVIDED BY THE HCA.

2332 8.37.2 Agency HCA mManager

2333 (A) THE HCA'S GOVERNING BODY OR DESIGNEE A licensed home care agency providing
 2334 personal care services shall designate APPOINT an HCA agency manager to supervise the
 2335 provision of these HCA's services.

2336 (B) The HCA agency manager shall meet the following qualifications:

2337 (1) Be at least TWENTY-ONE (21) years of age, possess a high school diploma or
 2338 GED, and HAVE at least one (1) year documented supervisory experience in the
 2339 provision of personal care services;

2340 (A) IF THE HCA MANAGER DOES NOT HAVE THE REQUIRED ONE (1) YEAR OF
 2341 EXPERIENCE SUPERVISING THE DELIVERY OF PERSONAL CARE SERVICES, THEY
 2342 SHALL DEMONSTRATE THEY HAVE THE FOLLOWING:

2343 (i) A COLLEGE DEGREE IN HEALTHCARE SERVICES PLUS AT LEAST ONE
 2344 (1) YEAR OF WORK EXPERIENCE IN HEALTH CARE DURING THE
 2345 PREVIOUS TEN (10)-YEAR PERIOD; OR

2346 (ii) A COLLEGE DEGREE IN ANY FIELD PLUS TWO (2) YEARS OF WORK
 2347 EXPERIENCE IN HEALTH CARE DURING THE PREVIOUS TEN (10)-YEAR
 2348 PERIOD.

2349 (2) Be able to communicate and understand return communication effectively in
 2350 exchanges between the consumer, family representatives, and other providers,
 2351 INCLUDING THE USE OF APPROPRIATE TRANSLATOR SERVICES AS NEEDED;

2352 (3) Have successfully completed an eight (8) hour agency manager training course.
 2353 Additional related annual training that equals TWELVE (12) hours shall be required
 2354 in the first year and annually thereafter;

2355 (a) Any person commencing service as an HCA agency manager after
 2356 January 1, 2014, shall meet the minimum training requirements
 2357 approved by the dDepartment pursuant to section 8.3(D) PART 7.2(D) of
 2358 this chapter, or provide documented and confirmed previous job related
 2359 experience or related education equivalent to successful completion of
 2360 such program. The dDepartment may require additional training to
 2361 ensure that all the required components of the training curriculum are
 2362 met.

2363 (b) A copy of the certificate of completion shall be retained in the
 2364 HCA agency manager's personnel file.

2365 (c) Any person already serving as an agency manager on December 31,
 2366 2010, shall either meet subparagraph (3) above or meet the minimum
 2367 training requirements in one of the following ways:

Commented [BM161]: Language idea came from ALR and modified to be more generic; Intent of language is to standardize personal care worker requirements across the industry. Discuss with stakeholders.

Commented [BM162]: Clarify in guidance document that college degree means associate's degree or higher

Commented [BM163]: Add Language Access and Effective Communication Policy from OBH in guidance

Commented [BM164]: Recommend striking since language is outdated; was included when the regulations were initially in place.

- 2368 (i) ~~Successful completion of a program approved by the~~
 2369 ~~department, pursuant to section 8.3(D) of this chapter, if~~
 2370 ~~completed within a period of six (6) months following January 1,~~
 2371 ~~2011;~~
- 2372 (ii) ~~Submission of evidence of successful completion of such training~~
 2373 ~~within the previous five (5) years before January 1, 2011; or~~
- 2374 (iii) ~~Documented and confirmed previous job related experience~~
 2375 ~~equivalent to successful completion of such a program that~~
 2376 ~~encompasses the items in section 8.3(D)(2) of this chapter.~~
- 2377 (4) Be familiar with all applicable local, state, and federal laws and regulations
 2378 concerning the operation and provision of home care services.
- 2379 (C) The HCA agency manager shall be responsible for ensuring:
- 2380 (1) The agency HCA is in compliance with all applicable federal, state, and local
 2381 laws;
- 2382 (2) ~~THE C~~Completion, maintenance, and submission of such reports and records as
 2383 required by the ~~d~~Department;
- 2384 (3) Ongoing liaison with the governing body ~~OR DESIGNEE~~, staff members, and the
 2385 community;
- 2386 (4) ~~MAINTENANCE OF A~~ current organizational chart to show lines of authority down
 2387 to the consumer level;
- 2388 (5) ~~MAINTENANCE OF A~~Appropriate personnel, bookkeeping, and administrative
 2389 records and policies and procedures of the agency HCA;
- 2390 (6) Orientation of new ~~PERSONNEL~~staff, ~~AND~~ regularly scheduled in-service education
 2391 programs and opportunities for continuing education ~~ARE PROVIDED~~ for the
 2392 ~~PERSONNEL~~staff;
- 2393 (7) ~~Designation-DESIGNATING~~ in writing ~~OF~~ the qualified staff member to act in the
 2394 absence of the manager;
- 2395 (8) Availability of the manager or designee for all hours that employees ~~PERSONNEL~~
 2396 are providing services; ~~and~~
- 2397 (9) All ~~m~~Marketing, advertising, and promotional information accurately represent the
 2398 HCA and address the care, treatment, and services that the HCA can provide
 2399 directly or through contractual arrangement;
- 2400 (10) ~~MAINTENANCE OF A COORDINATED HCA-WIDE PROGRAM FOR APPROPRIATE INFECTION~~
 2401 ~~PREVENTION AND CONTROL THAT IS AN INTEGRAL PART OF THE HCA'S QUALITY~~
 2402 ~~MANAGEMENT PROGRAM; AND~~
- 2403 (11) ~~THE IMPLEMENTATION AND MONITORING OF THE HCA'S TRAINING PROGRAM FOR ALL~~
 2404 ~~HOMEMAKERS AND PERSONAL CARE WORKERS, INCLUDING MANAGING OR DELEGATING~~
 2405 ~~EMPLOYEE TRAINING AND DEVELOPMENT ACTIVITIES FOR THE HCA.~~
- 2406 (D) An agency HCA manager training program shall be approved by the ~~d~~Department if:

Commented [BM165]: SOM §484.70(b) language

Duplicated from skilled care and modified to align with non-medical

- 2407 (1) The program or its components are conducted by an accredited college,
 2408 university, or vocational school; or **BY** an organization, association, corporation,
 2409 group, or agency with specific expertise in that area and the curriculum includes
 2410 at least eight (8) actual hours of training.
- 2411 (2) Instruction includes, at a minimum, discussion of each **OF** the following topics:
- 2412 (a) Home care overview including other agency types providing services and
 2413 how to interact and coordinate, ~~with each~~ including limitations of personal
 2414 care versus health care services;
- 2415 (b) Regulatory responsibilities and compliance, including, **but not limited to**:
- 2416 (i) Consumer rights,
- 2417 (ii) Governing body **OR DESIGNEE** responsibilities,
- 2418 (iii) Quality management plans,
- 2419 (iv) Occurrence reporting, and
- 2420 (v) Complaint investigation and resolution process;
- 2421 (c) Personnel qualifications, experience, competency and evaluations, staff
 2422 training, and supervision;
- 2423 (d) Needs of the fragile, ill, and physically, ~~and cognitively~~, **AND/OR**
 2424 **DEVELOPMENTALLY** disabled in the community setting regarding special
 2425 training and staffing considerations; and
- 2426 (e) Behavior management techniques.

2427 **8.4** **Supervisor**

- 2428 (A) ~~The supervisor shall:~~
- 2429 (1) ~~Be at least 18 years of age,~~
- 2430 (2) ~~Have appropriate experience or training in the home care industry or closely~~
 2431 ~~related personal care services in accordance with agency policy, and~~
- 2432 (3) ~~Have completed training in the provision of personal care services.~~

2433 **7.3** **HOMEMAKER**

- 2434 (A) **A HOMEMAKER SHALL COMPLETE TRAINING, IN ACCORDANCE WITH THE FOLLOWING**
 2435 **REQUIREMENTS, PRIOR TO PROVIDING SERVICES INDEPENDENTLY.**
- 2436 (B) **A HOMEMAKER MUST COMPLETE TRAINING AS SPECIFIED IN PART 7.3(C) AND PASS A**
 2437 **COMPETENCY EVALUATION THAT INCLUDES A VISUAL OBSERVATION AND EVALUATION OF**
 2438 **RELEVANT SKILLS, PRIOR TO PROVIDING CARE TO A CONSUMER.**
- 2439 (1) **IF THE HCA UTILIZES ANOTHER ENTITY TO PROVIDE THE TRAINING, THE HCA MUST**
 2440 **VALIDATE **THAT** THE TRAINING PROGRAM MEETS THE REQUIREMENTS IN PART 7.3(C)**
 2441 **BELOW AND RETAIN EVIDENCE OF THE INDIVIDUAL'S SUCCESSFUL COMPLETION OF THE**

Commented [BM166]: Moved down below training to 7.7 so that it is with Supervision.

Commented [BM167]: New proposed requirement; creates a "stacked" model where homemaker is base level requirements for personal care worker. While a new proposed requirement, not a lot of new language just a reorganization.

- 2442 TRAINING PROGRAM IN THE PERSONNEL RECORD.
- 2443 (C) HOMEMAKER TRAINING
- 2444 (1) ALL HOMEMAKER STAFF SHALL COMPLETE HCA TRAINING BEFORE INDEPENDENTLY
 2445 PROVIDING SERVICES TO CONSUMERS. INITIAL TRAINING MUST BE INTERACTIVE IN
 2446 NATURE AND MAY BE COMPLETED THROUGH THE FOLLOWING MODES: IN-PERSON,
 2447 ONLINE/VIRTUAL, OR A HYBRID, WITH DEMONSTRATION OF LEARNED CONCEPTS.
 2448 INITIAL TRAINING SHALL INCLUDE:
- 2449 (A) PERSONNEL DUTIES AND RESPONSIBILITIES, INCLUDING BUT NOT LIMITED TO
 2450 INCIDENT REPORTING AND MANDATORY REPORTING;
- 2451 (B) RULES FOR NON-MEDICAL CARE AND SERVICES AS DESCRIBED IN THIS
 2452 CHAPTER;
- 2453 (C) THE DIFFERENCES IN HOMEMAKER AND PERSONAL CARE;
- 2454 (D) CONSUMER RIGHTS, INCLUDING FREEDOM FROM ABUSE OR NEGLECT, AND
 2455 CONFIDENTIALITY OF PERSONAL, FINANCIAL, AND HEALTH INFORMATION;
- 2456 (E) BASIC HEALTH AND SAFETY, INCLUDING BUT NOT LIMITED TO, HOME
 2457 SAFETY, FALL PREVENTION, HAND WASHING, AND INFECTION CONTROL;
- 2458 (F) ASSIGNMENT AND SUPERVISION OF SERVICES;
- 2459 (G) COMMUNICATION SKILLS;
- 2460 (H) THE PHYSICAL, EMOTIONAL, AND DEVELOPMENTAL NEEDS OF, AND
 2461 METHODS TO WORK WITH, THE POPULATIONS SERVED AND ASSIGNMENT OF
 2462 CONSUMERS BY THE HCA, INCLUDING THE NEED FOR RESPECT OF THE
 2463 CONSUMER, THEIR PRIVACY, AND PROPERTY; AND
- 2464 (I) TRAINING AND CORE COMPETENCY EVALUATION OF HOMEMAKING AND
 2465 HOUSEKEEPING SKILLS SHALL BE CONDUCTED BEFORE COMPLETION OF
 2466 INITIAL TRAINING, INCLUDING THE EVALUATION OF MAINTENANCE OF A
 2467 CLEAN, SAFE, AND HEALTHY ENVIRONMENT AND THE APPROPRIATE AND
 2468 SAFE TECHNIQUES FOR EACH ASSIGNED TASK TO BE CONDUCTED BEFORE
 2469 COMPLETION OF INITIAL TRAINING.
- 2470 (2) THE HCA SHALL PROVIDE ORIENTATION FOR ALL PERSONNEL UPON HIRE THAT
 2471 INCLUDES, BUT IS NOT LIMITED TO, HCA POLICIES AND PROCEDURES AND
 2472 EMERGENCY RESPONSE POLICIES AND EMERGENCY CONTACT NUMBERS FOR THE
 2473 HCA AND FOR THE INDIVIDUAL CONSUMER(S) ASSIGNED.
- 2474 (3) THE HCA SHALL ENSURE THAT ONGOING TRAINING OF HOMEMAKERS OCCURS AND
 2475 SHALL CONSIST OF AT LEAST FOUR (4) TRAINING TOPICS OUTLINED IN PART
 2476 7.3(C)(1) ABOVE EVERY TWELVE (12) MONTHS AFTER THE STARTING DATE OF
 2477 EMPLOYMENT OR CALENDAR YEAR AS DESIGNATED BY HCA POLICY. THE TRAINING
 2478 REQUIREMENT SHALL BE PRORATED IN ACCORDANCE WITH THE NUMBER OF MONTHS
 2479 THE EMPLOYEE WAS ACTIVELY WORKING FOR THE HCA.
- 2480 (D) HOMEMAKERS SHALL PROVIDE SERVICES IN ACCORDANCE WITH THE POLICIES AND
 2481 REQUIREMENTS OF THE HCA AS WELL AS THE SERVICE ARRANGEMENTS SPELLED OUT IN
 2482 THE SERVICE PLAN.

Commented [BM168]: Modified from CNA training

Commented [BM169]: Reorganized sentence for clarity

- 2483 (E) THE DUTIES OF A HOMEMAKER SHALL INCLUDE THE FOLLOWING:
- 2484 (1) REPORTING ANY OBSERVED ENVIRONMENTAL CONCERNS OR CHANGES IN THE
2485 CONSUMER'S STATUS THAT MAY IMPACT THE SAFETY AND SECURITY OF THE
2486 CONSUMER TO THE HCA.
- 2487 (2) COMPLETION OF APPROPRIATE SERVICE NOTES REGARDING SERVICE PROVISION OF
2488 EACH VISIT, TO INCLUDE CONFIRMATION OF SERVICES PROVIDED AND THE DATE AND
2489 TIME IN AND OUT. SUCH CONFIRMATION SHALL ALSO BE ACCORDING TO HCA
2490 POLICY.
- 2491 (F) THE DUTIES OF A HOMEMAKER MAY INCLUDE THE FOLLOWING:
- 2492 (1) ROUTINE LIGHT HOUSE CLEANING, MEAL PREPARATION, DISHWASHING, AND BED
2493 MAKING. HOMEMAKERS MAY ALSO ASSIST IN TEACHING THESE TASKS TO THE
2494 CONSUMER.
- 2495 (A) WHERE MEAL PREPARATION IS PROVIDED IN ACCORDANCE WITH THE
2496 SERVICE CONTRACT, THE HOMEMAKER SHOULD RECEIVE INSTRUCTION
2497 REGARDING ANY SPECIAL DIETS REQUIRED TO BE PREPARED.
- 2498 (2) ASSISTANCE IN COMPLETING ACTIVITIES OUTSIDE THE HOME, SUCH AS SHOPPING
2499 ~~AND/OR~~ LAUNDRY.
- 2500 (3) COMPANIONSHIP, INCLUDING BUT NOT LIMITED TO ~~THE~~ SOCIAL INTERACTION,
2501 CONVERSATION, EMOTIONAL REASSURANCE, ENCOURAGEMENT OF READING,
2502 WRITING, AND ACTIVITIES THAT STIMULATE THE MIND.

2503 ~~8.57.4~~ Personal Care Worker

- 2504 (A) A PERSONAL CARE WORKER MUST MEET ALL REQUIREMENTS IN PART 7.3, HOMEMAKER, IN
2505 ADDITION TO THE SPECIFIC REQUIREMENTS FOR PERSONAL CARE WORKERS OUTLINED
2506 BELOW, PRIOR TO PROVIDING SERVICES INDEPENDENTLY.
- 2507 (B) A PERSONAL CARE WORKER MUST COMPLETE TRAINING AS SPECIFIED IN PART 7.4(C),
2508 PERSONAL CARE WORKER TRAINING, AND PASS A COMPETENCY EVALUATION AND SKILLS
2509 VALIDATION, INCLUDING VISUAL OBSERVATION, PRIOR TO PROVIDING CARE TO A CONSUMER.
- 2510 (A) ~~A personal care worker shall have completed agency training or have verified experience
2511 in the provision of home care tasks to consumers and passed a competency evaluation.~~
- 2512 (B) ~~Personal care service employees shall provide services in accordance with the policies
2513 and requirements of the agency as well as the service arrangements spelled out in the
2514 service plan.~~
- 2515 (C) PERSONAL CARE WORKER TRAINING
- 2516 (1) INITIAL TRAINING SHALL INCLUDE THE TOPICS IDENTIFIED IN HOMEMAKER TRAINING AT
2517 PART 7.3(C)(1), IN ADDITION TO THE FOLLOWING:
- 2518 (A) THE DIFFERENCES IN PERSONAL CARE, NURSE AIDE CARE, AND HEALTH CARE
2519 IN THE HOME INCLUDING LIMITING FACTORS FOR THE PROVISION OF PERSONAL
2520 CARE AS SPECIFIED IN PART 7.4(E) BELOW;

Commented [BM170]: Language moved up from PCW tasks

Commented [BM171]: Language added to clarify regulation based on stakeholder input after the hearing request

Commented [BM172]: Mimicking Homemaker language

Commented [BM173]: Reorganized this section, moved up from below. Not new language.

- 2521 (B) OBSERVATION, REPORTING, AND DOCUMENTATION OF CONSUMER STATUS AND
2522 THE SERVICE(S) FURNISHED;
- 2523 (C) NON-MEDICAL ASSISTANCE WITH ACTIVITIES OF DAILY LIVING, INCLUDING
2524 BATHING, SKIN CARE, HAIR CARE, NAIL CARE, MOUTH CARE, SHAVING,
2525 DRESSING, FEEDING, ASSISTANCE WITH AMBULATION, EXERCISES AND
2526 TRANSFERS, POSITIONING, BLADDER CARE, BOWEL CARE, AND PROTECTIVE
2527 OVERSIGHT;
- 2528 (D) MEDICATION REMINDERS; AND
- 2529 (E) PERFORMANCE OF THE ABILITY TO ASSIST IN THE USE OF SPECIFIC ADAPTIVE
2530 EQUIPMENT IF THE WORKER WILL BE ASSISTING CONSUMERS WHO USE THE
2531 DEVICE.
- 2532 (2) THE HCA SHALL PROVIDE ORIENTATION FOR ALL PERSONNEL UPON HIRE THAT
2533 INCLUDES, BUT IS NOT LIMITED TO, TOPICS IDENTIFIED IN HOMEMAKER ORIENTATION AT
2534 7.3(C)(2) AND A DESCRIPTION OF THE SERVICES PROVIDED BY THE HCA.
- 2535 (3) ~~THE~~ HCA IS RESPONSIBLE FOR ENSURING THAT THE INDIVIDUALS WHO FURNISH
2536 PERSONAL CARE SERVICES ON ITS BEHALF ARE COMPETENT TO CARRY OUT ALL
2537 ASSIGNED TASKS IN THE CONSUMER'S PLACE OF RESIDENCE.
- 2538 (A) PRIOR TO ASSIGNMENT, THE HCA MANAGER OR SUPERVISOR SHALL CONDUCT
2539 A PROOF OF COMPETENCY EVALUATION INVOLVING THE TASKS LISTED IN PART
2540 7.4(C)(1)(C), (D), AND (E), ALONG WITH ANY OTHER TASKS THAT REQUIRE
2541 SPECIFIC HANDS-ON APPLICATION.
- 2542 (4) THE HCA SHALL ENSURE THAT ONGOING SUPERVISORY AND DIRECT CARE STAFF
2543 TRAINING OCCURS AND SHALL CONSIST OF AT LEAST SIX (6) TOPICS EVERY TWELVE (12)
2544 MONTHS AFTER THE STARTING DATE OF EMPLOYMENT OR CALENDAR YEAR AS
2545 DESIGNATED BY HCA POLICY. THE TRAINING REQUIREMENT SHALL BE PRORATED IN
2546 ACCORDANCE WITH THE NUMBER OF MONTHS THE EMPLOYEE WAS ACTIVELY WORKING
2547 FOR THE HCA. TRAINING SHALL INCLUDE, BUT IS NOT LIMITED TO, THE FOLLOWING
2548 ITEMS:
- 2549 (A) BEHAVIOR MANAGEMENT TECHNIQUES AND THE PROMOTION OF CONSUMER
2550 DIGNITY, INDEPENDENCE, SELF-DETERMINATION, PRIVACY, CHOICE, AND
2551 RIGHTS, INCLUDING ABUSE AND NEGLECT PREVENTION AND REPORTING
2552 REQUIREMENTS.
- 2553 (B) DISASTER AND EMERGENCY PROCEDURES.
- 2554 (C) INFECTION CONTROL USING UNIVERSAL PRECAUTIONS.
- 2555 (D) BASIC FIRST AID AND HOME SAFETY.
- 2556 (D) THE DUTIES OF A PERSONAL CARE WORKER SHALL INCLUDE ALL DUTIES OUTLINED IN
2557 HOMEMAKER DUTIES AT PART 7.3(E), IN ADDITION TO THE FOLLOWING:
- 2558 (1) OBSERVATION AND MAINTENANCE OF THE HOME ENVIRONMENT IN ACCORDANCE WITH
2559 THE SERVICE PLAN THAT ENSURES THE SAFETY AND SECURITY OF THE CONSUMER.
- 2560 (2) REPORTING ANY OBSERVED OR STATED CHANGES IN THE CONSUMER'S PHYSICAL,
2561 COGNITIVE, AND/OR DEVELOPMENTAL STATUS.

Commented [BM174]: Existing language

Commented [BM175]: Existing language

Commented [BM176]: Added this duty in PCW after discussing what to do if a consumer is being served by a Class B agency and the consumer's needs change so that they need to be serviced by a Class A agency.

2562 (GE) The duties of personal care worker may include **ALL DUTIES OUTLINED IN HOMEMAKER**
2563 **DUTIES AT PART 7.3(F), IN ADDITION TO** the following:

2564 (1) Observation and maintenance of the home environment that ensures the safety
2565 and security of the consumer.

Commented [BM177]: Moved to required duties above

2566 (2) Assistance with household chores including cooking and meal preparation,
2567 cleaning, and laundry.

2568 (3) Assistance in completing activities such as shopping, and appointments outside
2569 the home.

2570 (4) Companionship including, but not limited to, social interaction, conversation,
2571 emotional reassurance, encouragement of reading, writing and activities that
2572 stimulate the mind.

Commented [BM178]: In homemaker

2573 (51) Assistance with **NON-MEDICAL** activities of daily living, personal care, and any
2574 other assignments as included in the service plan.

2575 (6) Completion of appropriate service notes regarding service provision each visit.
2576 Documentation shall contain services provided, date and time in and out, and a
2577 confirmation that care was provided. Such confirmation shall be according to
2578 agency policy.

Commented [BM179]: In homemaker

2579 **(F) PERSONAL CARE WORKER TASKS**

Commented [BM180]: Modified the heading levels to make clearer

2580 **(A1F) PERSONAL CARE WORKER TASKS. THE PURPOSE OF THIS PART IS** In order to delineate the
2581 types of services that can be provided by a personal care worker. **T**he following are
2582 examples of limitations where skilled home health care would be needed to meet higher
2583 needs of the consumer.

Commented [BM181]: This entire section is not new language, but broken out into bullets below to make for easier reading.

2584 **(1A)** Skin care. A personal care worker may perform general skin care assistance. A
2585 personal care worker may perform skin care only when skin is unbroken, and
2586 when any chronic skin problems are not active. The skin care provided by a
2587 personal care worker shall be preventative rather than therapeutic in nature and
2588 may include the application of non-medicated lotions and solutions, or of lotions
2589 and solutions not requiring a physician's prescription. Skilled skin care includes
2590 wound care other than basic first aid, dressing changes, application of
2591 prescription medications, skilled observation, and reporting. Skilled skin care
2592 should be provided by an agency licensed to provide home health services.

2593 **(IA)** A PERSONAL CARE WORKER MAY PERFORM GENERAL SKIN CARE ASSISTANCE.

2594 **(IB)** A PERSONAL CARE WORKER MAY PERFORM SKIN CARE ONLY WHEN SKIN IS
2595 UNBROKEN, AND WHEN ANY CHRONIC SKIN PROBLEMS ARE NOT ACTIVE.

2596 **(IIC)** THE SKIN CARE PROVIDED BY A PERSONAL CARE WORKER SHALL BE
2597 PREVENTATIVE RATHER THAN THERAPEUTIC IN NATURE AND MAY INCLUDE THE
2598 APPLICATION OF NON-MEDICATED LOTIONS AND SOLUTIONS, OR OF LOTIONS
2599 AND SOLUTIONS NOT REQUIRING A PHYSICIAN'S PRESCRIPTION.

2600 **(IVD)** SKILLED SKIN CARE INCLUDES WOUND CARE OTHER THAN BASIC FIRST AID,
2601 DRESSING CHANGES, APPLICATION OF PRESCRIPTION MEDICATIONS, SKILLED
2602 OBSERVATION, AND REPORTING. SKILLED SKIN CARE SHOULD BE PROVIDED BY
2603 AN HCA LICENSED TO PROVIDE SKILLED HOME HEALTH SERVICES.

- 2604 (2B) Ambulation. A personal care worker may generally assist consumers with
2605 ambulation who have the ability to balance and bear weight. If the consumer has
2606 been determined by a health professional to be independent with an assistive
2607 device, a personal services worker may be assigned to assist with ambulation.
- 2608 (1A) A PERSONAL CARE WORKER MAY GENERALLY ASSIST CONSUMERS WITH
2609 AMBULATION IF THEY HAVE THE ABILITY TO BALANCE AND BEAR WEIGHT.
- 2610 (1B) IF THE HEALTH PROFESSIONAL HAS DETERMINED THAT THE CONSUMER IS
2611 INDEPENDENT WITH AN ASSISTIVE DEVICE, A PERSONAL SERVICES WORKER
2612 MAY BE ASSIGNED TO ASSIST WITH AMBULATION.
- 2613 (3C) Bathing. A personal care worker may assist consumers with bathing. When a
2614 consumer has skilled skin care needs or skilled dressings that will need attention
2615 before, during or after bathing, the consumer should be in the care of an agency
2616 licensed to provide home health services.
- 2617 (1A) A PERSONAL CARE WORKER MAY ASSIST CONSUMERS WITH BATHING ONLY IF
2618 THEY HAVE THE ABILITY TO BALANCE AND BEAR WEIGHT, EXCEPT WHEN A
2619 TRANSFER INVOLVES A LIFT DEVICE AS DESCRIBED IN PART 7.4(F)(13)(M)(VD).
- 2620 (1B) WHEN A CONSUMER HAS SKILLED SKIN CARE NEEDS OR SKILLED DRESSINGS
2621 THAT WILL NEED ATTENTION BEFORE, DURING, OR AFTER BATHING, THE
2622 CONSUMER SHOULD BE IN THE CARE OF AN HCA LICENSED TO PROVIDE
2623 SKILLED HOME HEALTH SERVICES FOR THOSE NEEDS.
- 2624 (4B) Dressing. A personal care worker may assist a consumer with dressing. This
2625 may include assistance with ordinary clothing and application of support
2626 stockings of the type that can be purchased without a physician's prescription. A
2627 personal care worker shall not assist with application of an ace bandage and
2628 anti-embolic or pressure stockings that can be purchased only with a physician's
2629 prescription.
- 2630 (1A) A PERSONAL CARE WORKER MAY ASSIST A CONSUMER WITH DRESSING. THIS
2631 MAY INCLUDE ASSISTANCE WITH ORDINARY CLOTHING AND APPLICATION OF
2632 SUPPORT STOCKINGS, INCLUDING ACE BANDAGES AND ANTI-EMBOLIC OR
2633 PRESSURE STOCKINGS THAT CAN BE PURCHASED WITHOUT A PHYSICIAN'S
2634 PRESCRIPTION.
- 2635 (1B) A PERSONAL CARE WORKER THAT ASSISTS A CONSUMER WITH APPLICATION OF
2636 ANY SUPPORT STOCKING MUST RECEIVE TRAINING FROM A QUALIFIED
2637 INDIVIDUAL IN THE STOCKING'S PROPER APPLICATION. PRIOR TO APPLICATION
2638 AND ON AN ANNUAL BASIS, THE QUALIFIED INDIVIDUAL SHALL CONDUCT A
2639 PROOF OF COMPETENCY EVALUATION IN THE CORRECT APPLICATION OF
2640 SUPPORT STOCKINGS.
- 2641 (5E) Exercise. A personal care worker may assist a consumer with exercise.
2642 However, this does not include assistance with a plan of exercise prescribed by a
2643 licensed health care professional. A worker may remind the consumer to perform
2644 ordered exercise program. Assistance with exercise that can be performed by a
2645 personal care worker is limited to the encouragement of normal bodily
2646 movement, as tolerated, on the part of the consumer and encouragement with a
2647 prescribed exercise program. A personal care worker shall not perform passive
2648 range of motion.

Commented [BM182]: Updated reference

Commented [BM183]: Clarify our interpretation around skilled skin care in guidance

- 2649 (IA) A PERSONAL CARE WORKER MAY ASSIST A CONSUMER WITH EXERCISE.
2650 HOWEVER, THIS DOES NOT INCLUDE ASSISTANCE WITH A PLAN OF EXERCISE
2651 PRESCRIBED BY A LICENSED HEALTH CARE PROFESSIONAL.
- 2652 (HB) A PERSONAL CARE WORKER MAY REMIND THE CONSUMER TO PERFORM
2653 ORDERED EXERCISE. ASSISTANCE WITH EXERCISE THAT CAN BE PERFORMED
2654 BY A PERSONAL CARE WORKER IS LIMITED TO THE ENCOURAGEMENT OF
2655 NORMAL BODILY MOVEMENT, AS TOLERATED, ON THE PART OF THE CONSUMER
2656 AND ENCOURAGEMENT WITH A PRESCRIBED EXERCISE PROGRAM.
- 2657 (HC) A PERSONAL CARE WORKER SHALL NOT PERFORM PASSIVE RANGE OF MOTION.
- 2658 (6F) Feeding. Assistance with feeding may generally be performed by a personal
2659 service worker. Personal care workers can assist consumers with feeding when
2660 the consumer can independently chew and swallow without difficulty and be
2661 positioned upright. Unless otherwise allowed by statute, assistance by a personal
2662 care worker does not include syringe, tube feedings and intravenous nutrition.
2663 Whenever there is a high risk that the consumer may choke as a result of the
2664 feeding the consumer should be in the care of an agency licensed to provide
2665 home health services.
- 2666 (IA) ASSISTANCE WITH FEEDING MAY GENERALLY BE PERFORMED BY A PERSONAL
2667 SERVICE WORKER.
- 2668 (HB) PERSONAL CARE WORKERS CAN ASSIST CONSUMERS WITH FEEDING WHEN THE
2669 CONSUMER CAN INDEPENDENTLY CHEW AND SWALLOW WITHOUT DIFFICULTY
2670 AND BE POSITIONED UPRIGHT.
- 2671 (HC) UNLESS OTHERWISE ALLOWED BY STATUTE, ASSISTANCE BY A PERSONAL CARE
2672 WORKER DOES NOT INCLUDE SYRINGE, TUBE FEEDINGS, AND INTRAVENOUS
2673 NUTRITION. WHENEVER THERE IS A HIGH RISK THAT THE CONSUMER MAY
2674 CHOKO AS A RESULT OF THE FEEDING, THE CONSUMER SHOULD BE IN THE CARE
2675 OF AN HCA LICENSED TO PROVIDE SKILLED HOME HEALTH SERVICES.
- 2676 (7E) Hair care. As a part of the broader set of services provided to consumers who
2677 are receiving personal services, personal care workers may assist consumers
2678 with the maintenance and appearance of their hair. Hair care within these
2679 limitations may include shampooing with non-medicated shampoo or shampoo
2680 that does not require a physician's prescription, drying, combing and styling of
2681 hair.
- 2682 (IA) AS A PART OF THE BROADER SET OF SERVICES PROVIDED TO CONSUMERS WHO
2683 ARE RECEIVING PERSONAL SERVICES, PERSONAL CARE WORKERS MAY ASSIST
2684 CONSUMERS WITH THE MAINTENANCE AND APPEARANCE OF THEIR HAIR.
- 2685 (HB) HAIR CARE MAY INCLUDE SHAMPOOING, DRYING, COMBING, AND STYLING OF
2686 HAIR. MEDICATED SHAMPOO OR SHAMPOO THAT REQUIRES A PHYSICIAN'S
2687 PRESCRIPTION MAY NOT BE USED.
- 2688 (HC) OVER-THE-COUNTER MEDICATED SHAMPOOS MAY BE USED AS PART OF THE
2689 BROADER SET OF SERVICES PROVIDED TO THE CONSUMER, IF THE PERSONAL
2690 CARE WORKER HAS BEEN TRAINED BY THE AGENCY IN THE PROPER USE OF THE
2691 PRODUCT. PRIOR TO APPLICATION AND ON AN ANNUAL BASIS, A QUALIFIED
2692 INDIVIDUAL SHALL CONDUCT A PROOF OF COMPETENCY EVALUATION IN THE
2693 CORRECT USE OF THESE PRODUCTS.

Commented [BM184]: New language to make more inclusive.
Also create technical guidance on cultural competency around hair
care and nuances (lice shampoo)

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- (8~~H~~) Mouth care. A personal care worker may assist and perform mouth care. This may include denture care and basic oral hygiene. Mouth care for consumers who are unconscious, have difficulty swallowing or are at risk for choking and aspiration should be performed by an agency licensed to provide home health services.
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2700
- (IA) A PERSONAL CARE WORKER MAY ASSIST AND PERFORM MOUTH CARE. THIS MAY INCLUDE DENTURE CARE AND BASIC ORAL HYGIENE.
- 2701
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- (HB) MOUTH CARE FOR CONSUMERS WHO ARE UNCONSCIOUS, HAVE DIFFICULTY SWALLOWING, OR ARE AT RISK FOR CHOKING AND ASPIRATION ~~SHOULD~~SHALL BE PERFORMED BY AN HCA LICENSED TO PROVIDE SKILLED HOME HEALTH SERVICES.
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- (9) Nail care. A personal care worker may assist generally with nail care. This assistance may include soaking of nails, pushing back cuticles without utensils, and filing of nails. Assistance by a personal care worker shall not include nail trimming. Consumers with a medical condition that might involve peripheral circulatory problems or loss of sensation should be under the care of an agency licensed to provide home health services to meet this need.
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2712
2713
- (IA) A PERSONAL CARE WORKER MAY ASSIST GENERALLY WITH NAIL CARE. THIS ASSISTANCE MAY INCLUDE SOAKING OF NAILS, PUSHING BACK CUTICLES WITHOUT UTENSILS, AND FILING OF NAILS.
- 2714
2715
- (HB) ASSISTANCE BY A PERSONAL CARE WORKER SHALL NOT INCLUDE NAIL TRIMMING.
- 2716
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2719
- (HC) CONSUMERS WITH A MEDICAL CONDITION THAT MIGHT INVOLVE PERIPHERAL CIRCULATORY PROBLEMS OR LOSS OF SENSATION ~~SHOULD~~SHALL BE UNDER THE CARE OF AN HCA LICENSED TO PROVIDE SKILLED HOME HEALTH SERVICES.
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- (10~~a~~) Positioning. A personal care worker may assist a consumer with positioning when the consumer is able to identify to the personal care staff, verbally, non-verbally or through others, when the positions needs to be changed and only when skilled skin care, as previously described, is not required in conjunction with the positions. Positioning may include simple alignment in a bed, wheelchair, or other furniture.
- 2726
2727
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2729
- (IA) A PERSONAL CARE WORKER MAY ASSIST A CONSUMER WITH POSITIONING WHEN THE CONSUMER IS ABLE TO IDENTIFY TO THE PERSONAL CARE STAFF, VERBALLY, NON-VERBALLY, OR THROUGH OTHERS, WHEN THE POSITIONS NEEDS TO BE CHANGED.
- 2730
2731
- (HB) POSITIONING SHALL NOT EXCEED SIMPLE ALIGNMENT IN A BED, WHEELCHAIR, OR OTHER FURNITURE.
- 2732
2733
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2736
- (HC) A PERSONAL CARE WORKER MAY ASSIST A SKILLED HOME HEALTH WORKER WITH A CONSUMER'S POSITIONING WHEN ANY POSITION CHANGE ADDRESSES SKILLED SKIN CARE CONCERNS, AS DEFINED AT PART 7.4(F)(1)(AD) ~~(IV)~~. A PERSONAL CARE WORKER MAY NOT BE ASSIGNED TO OR INDEPENDENTLY PERFORM THIS FUNCTION.

Commented [BM185]: Updated reference

- 2737
2738 (11k) Shaving. A personal care worker may assist a consumer with shaving only with an electric or a safety razor.
- 2739
2740 (IA) A PERSONAL CARE WORKER MAY ASSIST A CONSUMER WITH SHAVING ONLY WITH AN ELECTRIC OR A SAFETY RAZOR.
- 2741
2742
2743 (12L) Toileting. A personal care worker may assist a consumer to and from the bathroom, provide assistance with bedpans, urinals and commodes; pericare, or changing of clothing and pads of any kind used for the care of incontinence.
- 2744
2745
2746
2747 (IA) A PERSONAL CARE WORKER MAY ASSIST A CONSUMER TO AND FROM THE BATHROOM; PROVIDE ASSISTANCE WITH BEDPANS, URINALS, AND COMMODES; PROVIDE PERICARE; OR CHANGING OF CLOTHING AND PADS OF ANY KIND USED FOR THE CARE OF INCONTINENCE.
- 2748
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2751 (IB) A PERSONAL CARE WORKER MAY EMPTY URINARY COLLECTION DEVICES, SUCH AS CATHETER BAGS. IN ALL CASES, THE INSERTION AND REMOVAL OF CATHETERS AND CARE OF EXTERNAL CATHETERS IS CONSIDERED SKILLED CARE AND SHALL NOT BE PERFORMED BY A PERSONAL CARE WORKER.
- 2752
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2756 (IIC) A PERSONAL CARE WORKER MAY EMPTY OSTOMY BAGS AND PROVIDE ASSISTANCE WITH OTHER CONSUMER-DIRECTED OSTOMY CARE ONLY WHEN THERE IS NO NEED FOR SKILLED SKIN CARE OR FOR OBSERVATION OR REPORTING TO A NURSE. A PERSONAL CARE WORKER SHALL NOT PERFORM DIGITAL STIMULATION, INSERT SUPPOSITORIES, OR GIVE AN ENEMA.
- 2757
2758
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2760 (13) A personal care worker may empty urinary collection devices, such as catheter bags. In all cases, the insertion and removal of catheters and care of external catheters is considered skilled care and shall not be performed by a personal care worker.
- 2761
2762
2763
2764 (14) A personal care worker may empty ostomy bags and provide assistance with other consumer-directed ostomy care only when there is no need for skilled skin care or for observation or reporting to a nurse. A personal care worker shall not perform digital stimulation, insert suppositories or give an enema.
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2773 (15M13) Transfers. A personal care worker may assist with transfers only when the consumer has sufficient balance and strength to reliably stand and pivot and assist with the transfer to some extent. Adaptive and safety equipment may be used in transfers, provided that the consumer and personal care worker are fully trained in the use of the equipment and the consumer, consumer's family member or guardian can direct the transfer step by step. Adaptive equipment may include, but is not limited to wheel chairs, tub seats and grab bars. Gait belts may be used in a transfer as a safety device for the personal care worker as long as the worker has been properly trained in its use.
- 2774
2775
2776 (IA) A PERSONAL CARE WORKER MAY ASSIST WITH TRANSFERS ONLY WHEN THE CONSUMER HAS SUFFICIENT BALANCE AND STRENGTH TO RELIABLY STAND AND PIVOT AND ASSIST WITH THE TRANSFER TO SOME EXTENT.
- 2777
2778
2779
2780 (IB) ADAPTIVE AND SAFETY EQUIPMENT MAY BE USED IN TRANSFERS, PROVIDED THAT THE CONSUMER AND PERSONAL CARE WORKER ARE FULLY TRAINED IN THE USE OF THE EQUIPMENT, AND THE CONSUMER, CONSUMER'S FAMILY MEMBER, OR GUARDIAN CAN DIRECT THE TRANSFER STEP BY STEP. ADAPTIVE

Commented [BM186]: (ii) and (iii) were their own bullets (below). Moved under toileting.

- 2781 EQUIPMENT MAY INCLUDE, BUT IS NOT LIMITED TO, WHEEL CHAIRS, TUB SEATS,
2782 AND GRAB BARS.
- 2783 (HIC) GAIT BELTS MAY BE USED IN A TRANSFER AS A SAFETY DEVICE FOR THE
2784 PERSONAL CARE WORKER AS LONG AS THE WORKER HAS BEEN PROPERLY
2785 TRAINED IN ITS USE AND AS LONG AS THE CONSUMER IS ABLE TO ASSIST WITH
2786 THE TRANSFER.
- 2787 (a)(V) A personal care worker shall not perform assistance with transfers when
2788 the consumer is unable to assist with the transfer. Personal care
2789 workers, with training and demonstrated competency, may assist a
2790 consumer in a transfer involving a lift device.
- 2791 (b)(E) A personal care worker may assist the informal caregiver with
2792 transferring the consumer provided the consumer is able to direct and
2793 assist with the transfer.
- 2794 (16N14) Medication Assistance. THE FOLLOWING REQUIREMENTS APPLY TO ALL PRESCRIPTION
2795 AND ALL OVER-THE-COUNTER MEDICATIONS. Unless otherwise allowed by statute, a
2796 personal care worker may assist a consumer with medication only when the
2797 medications have been pre-selected by the consumer, a family member, a nurse,
2798 or a pharmacist, and are stored in containers other than the prescription bottles,
2799 such as medication minders. Medication minder containers shall be clearly
2800 marked as to day and time of dosage and reminding includes: inquiries as to
2801 whether medications were taken; verbal prompting to take medications; handing
2802 the appropriately marked medication minder container to the consumer; and,
2803 opening the appropriately marked medication minder container for the consumer
2804 if the consumer is physically unable to open the container. These limitations
2805 apply to all prescription and all over-the-counter medications. Any irregularities
2806 noted in the pre-selected medications such as medications taken too often, not
2807 often enough or not at the correct time as marked in the medication minder
2808 container, shall be reported immediately by the personal care worker to the
2809 supervisor.
- 2810 (IA) UNLESS OTHERWISE ALLOWED BY STATUTE, A PERSONAL CARE WORKER MAY
2811 ASSIST A CONSUMER WITH MEDICATION ONLY WHEN THE MEDICATIONS HAVE
2812 BEEN PRE-SELECTED BY THE CONSUMER, A FAMILY MEMBER, A NURSE, OR A
2813 PHARMACIST, AND ARE STORED IN CONTAINERS OTHER THAN THE
2814 PRESCRIPTION BOTTLES, SUCH AS MEDICATION MINDERS.
- 2815 (HB) MEDICATION MINDER CONTAINERS SHALL BE CLEARLY MARKED AS TO DAY AND
2816 TIME OF DOSAGE AND REMINDING INCLUDES: INQUIRIES AS TO WHETHER
2817 MEDICATIONS WERE TAKEN; VERBAL PROMPTING TO TAKE MEDICATIONS;
2818 HANDING THE APPROPRIATELY MARKED MEDICATION MINDER CONTAINER TO
2819 THE CONSUMER; AND, OPENING THE APPROPRIATELY MARKED MEDICATION
2820 MINDER CONTAINER FOR THE CONSUMER IF THE CONSUMER IS PHYSICALLY
2821 UNABLE TO OPEN THE CONTAINER.
- 2822 (HIC) ANY IRREGULARITIES NOTED IN THE PRE-SELECTED MEDICATIONS SUCH AS
2823 MEDICATIONS TAKEN TOO OFTEN, NOT OFTEN ENOUGH, OR NOT AT THE
2824 CORRECT TIME AS MARKED IN THE MEDICATION MINDER CONTAINER, SHALL BE
2825 REPORTED IMMEDIATELY BY THE PERSONAL CARE WORKER TO THE
2826 SUPERVISOR.
- 2827 (17E15) RESPIRATORY CARE Respiratory care is considered skilled care and shall not be
2828 performed by a personal care worker. Respiratory care includes postural

- 2829 drainage, cupping, adjusting oxygen flow within established parameters, nasal,
2830 endotracheal and tracheal suctioning.
- 2831 (IA) RESPIRATORY CARE IS CONSIDERED SKILLED CARE AND SHALL NOT BE
2832 PERFORMED BY A PERSONAL CARE WORKER. RESPIRATORY CARE INCLUDES
2833 POSTURAL DRAINAGE, CUPPING, ADJUSTING OXYGEN FLOW WITHIN
2834 ESTABLISHED PARAMETERS, NASAL, ENDOTRACHEAL, AND TRACHEAL
2835 SUCTIONING.
- 2836 (aHB) Personal care workers may temporarily remove and replace a cannula or
2837 mask from the consumer's face for the purposes of shaving and/or
2838 washing a consumer's face.
- 2839 (bHHC) Personal care workers may set a consumer's oxygen flow according to
2840 written instruction when changing tanks, provided the personal care
2841 worker has been specifically trained and demonstrated competency for
2842 this task.
- 2843 (18P16) ~~Accompaniment. Accompanying the consumer to medical appointments, banking~~
2844 ~~errands, basic household errands, clothes shopping, grocery shopping or other~~
2845 ~~excursions to the extent necessary and as specified on the service plan may be~~
2846 ~~performed by the personal care worker when all the care that is provided by the~~
2847 ~~personal care staff in relation to the trip is unskilled personal care, as described~~
2848 ~~in these regulations.~~
- 2849 (IA) ACCOMPANYING THE CONSUMER TO MEDICAL APPOINTMENTS, BANKING
2850 ERRANDS, BASIC HOUSEHOLD ERRANDS, CLOTHES SHOPPING, GROCERY
2851 SHOPPING, OR OTHER EXCURSIONS TO THE EXTENT NECESSARY AND AS
2852 SPECIFIED ON THE SERVICE PLAN MAY BE PERFORMED BY THE PERSONAL CARE
2853 WORKER WHEN ALL THE CARE THAT IS PROVIDED BY THE PERSONAL CARE
2854 STAFF IN RELATION TO THE TRIP IS UNSKILLED PERSONAL CARE, AS DESCRIBED
2855 IN THESE REGULATIONS.
- 2856 (19P17) ~~Protective oversight. A personal care worker may provide protective oversight~~
2857 ~~including stand-by assistance with any personal care task described in these~~
2858 ~~regulations. When the consumer requires protective oversight to prevent~~
2859 ~~wandering, the personal care worker shall have been trained in appropriate~~
2860 ~~intervention and redirection techniques.~~
- 2861 (IA) A PERSONAL CARE WORKER MAY PROVIDE PROTECTIVE OVERSIGHT INCLUDING
2862 STAND-BY ASSISTANCE WITH ANY PERSONAL CARE TASK DESCRIBED IN THESE
2863 REGULATIONS.
- 2864 (HB) WHEN THE CONSUMER REQUIRES PROTECTIVE OVERSIGHT TO PREVENT
2865 WANDERING, THE PERSONAL CARE WORKER SHALL HAVE BEEN TRAINED IN
2866 APPROPRIATE INTERVENTION AND REDIRECTION TECHNIQUES.
- 2867 (20R18) ~~Respite care. A personal care worker may provide respite care in the consumer's~~
2868 ~~home according to the service plan as long as the necessary provision of~~
2869 ~~services during this time does not include skilled home health services as defined~~
2870 ~~in section 3.29 of this chapter.~~
- 2871 (IA) A PERSONAL CARE WORKER MAY PROVIDE RESPITE CARE IN THE CONSUMER'S
2872 HOME ACCORDING TO THE SERVICE PLAN AS LONG AS THE NECESSARY

2873 PROVISION OF SERVICES DURING THIS TIME DOES NOT INCLUDE SKILLED HOME
2874 HEALTH SERVICES AS DEFINED IN PART 2.29 OF THIS CHAPTER.

2875 (21) Housekeeping services. A personal care worker may provide housekeeping
2876 services, such as dusting, vacuuming, mopping, cleaning bathroom and kitchen
2877 areas, meal preparation, dishwashing, linen changes, laundry and shopping in
2878 accordance with the service contract. Where meal preparation is provided, the
2879 personal care worker should receive instruction regarding any special diets
2880 required to be prepared.

Commented [BM187]: Stricken here; moved and modified in homemaker duties (Part 7.3(F)(1))

2881 (B2G) In addition to the exclusions prescribed in the preceding section, the agency HCA shall
2882 not allow personal care workers to:

2883 (1A) Perform skilled home health services as defined in section 3-29 PART 2.29 of this
2884 chapter;

2885 (2B) Perform or provide medication set-up for a consumer; or

2886 (3E) Perform other actions specifically prohibited by agency HCA policy, regulations,
2887 or law.

2888 (F) Supervision of a personal care worker shall:

Commented [BM188]: Moved to 7.8 below

2889 (1) Be performed by a qualified employee of the agency HCA who is in a designated
2890 supervisory capacity and available to the worker for questions at all times;

2891 (2) Include evaluation of each personal care worker providing services at least
2892 annually. The evaluation shall include observation of tasks performed and
2893 relationship with the consumer; and

2894 (3) Provide on-site supervision at a minimum of every three (3) months and include
2895 an assessment of consumer satisfaction with services and the personal care
2896 worker's adherence to the service plan.

2897 (a) For a service agency that provides only Supported Living Services or
2898 Children's Extensive Support Services through a program approved by
2899 the Colorado Department of Human Services, the criteria set forth in
2900 paragraph F(3) shall be accomplished by compliance with 2 CCR 503-1,
2901 Section 16, Developmental Disabilities Services.

2902 8.6 Personal care worker training

Commented [BM189]: Pared down and moved up to 7.4(C)

2903 (A) All personal care staff shall complete agency orientation before independently providing
2904 services to consumers. Orientation shall include:

2905 (1) Employee duties and responsibilities;

2906 (2) A description of the services provided by the agency;

2907 (3) The differences in personal care, nurse aide care, and health care in the home
2908 including limiting factors for the provision of personal care;

2909 (4) Consumer rights including freedom from abuse or neglect, and confidentiality of
2910 consumer records, personal, financial, and health information;

- 2911 (5) — Hand washing and infection control;
- 2912 (6) — Assignment and supervision of services;
- 2913 (7) — Observation, reporting, and documentation of consumer status and the service
2914 furnished;
- 2915 (8) — Emergency response policies and emergency contact numbers for the agency
2916 and for the individual consumer assigned, and
- 2917 (9) — Training and competency evaluation of appropriate and safe techniques in all
2918 personal care tasks for each assigned task to be conducted before completion of
2919 initial training.
- 2920 (B) — Training within the first 45 days of employment shall be provided, in addition to
2921 orientation, which can include self-study courses with demonstration of learned concepts,
2922 and are applicable to the employee's responsibilities. Initial training shall include, but is
2923 not limited to:
- 2924 (1) — Communication skills with consumers such as those who have a hearing deficit,
2925 dementia, or other special needs;
- 2926 (2) — Appropriate training in accordance with the needs of special needs populations
2927 served by the agency including communication and behavior management
2928 techniques;
- 2929 (3) — Appropriate and safe techniques in personal care tasks prior to assignment.
2930 Areas include bathing, skin care, hair care, nail care, mouth care, shaving,
2931 dressing, feeding, assistance with ambulation, exercises and transfers,
2932 positioning, bladder care, bowel care, medication reminding, homemaking tasks,
2933 and protective oversight;
- 2934 (4) — Recognizing emergencies and knowledge of emergency procedures including
2935 basic first aid, home and fire safety;
- 2936 (5) — The role of, and coordination with, other community service providers; and
- 2937 (6) — Maintenance of a clean, safe and healthy environment, including appropriate
2938 cleaning techniques and sanitary meal preparation.

2939 **7.5 TRAINING EXEMPTIONS**

- 2940 (CA) Initial orientation or training shall not be required under the following circumstances:
- 2941 (1) A returning employee **IS EXEMPT FROM INITIAL TRAINING IF THEY ARE RETURNING TO**
2942 **THE SAME HCA WITHIN ONE (1) YEAR OF LEAVING, AND meets** all of the following
2943 conditions:
- 2944 (a) The employee completed the agency HCA's required training and
2945 competency assessment at the time of initial employment;
- 2946 (b) The employee successfully completed the agency HCA's required
2947 competency assessment at the time of rehire or reactivation.

Commented [BM190]: New requirement. Determined that a time frame was needed.

- 2948 (c) The employee did not have performance issues directly related to
2949 consumer care and services in the prior active period of employment;
2950 and
- 2951 (d) All orientation, training, and personnel action documentation **FROM THE**
2952 **PRIOR ACTIVE PERIOD OF EMPLOYMENT** is retained in the personnel files.
- 2953 (2) ~~An employee with proof of current healthcare related licensure or certification is~~
2954 ~~exempt from initial training in the provision of personal care tasks if such training~~
2955 ~~is recognized as included in the training for that health discipline. The agency~~
2956 ~~shall provide orientation and perform a competency evaluation to ensure the~~
2957 ~~employee is able to appropriately perform all personal care tasks.~~
- 2958 (3) An employee moving from one office to another in the same agency **HCA** if
2959 previous training is documented and the offices have the same orientation and
2960 training procedures.
- 2961 (A) **EVIDENCE OF COMPLETED INITIAL ORIENTATION AND TRAINING AND**
2962 **COMPETENCY EVALUATION MUST BE MAINTAINED BY EACH SEPARATELY**
2963 **LICENSED HCA.**
- 2964 (3) **A PERSONAL CARE WORKER WITH PROOF OF CURRENT HEALTHCARE RELATED**
2965 **LICENSURE OR CERTIFICATION IS EXEMPT FROM INITIAL TRAINING IN THE PROVISION**
2966 **OF PERSONAL CARE TASKS IF SUCH TRAINING IS RECOGNIZED AS INCLUDED IN THE**
2967 **TRAINING FOR THAT HEALTH DISCIPLINE. THE HCA SHALL PROVIDE ORIENTATION**
2968 **AND PERFORM A COMPETENCY EVALUATION TO ENSURE THE PERSONAL CARE**
2969 **WORKER IS ABLE TO DIFFERENTIATE AND APPROPRIATELY PERFORM ALL PERSONAL**
2970 **CARE WORKER TASKS.**
- 2971 (D) ~~The agency is responsible for ensuring that the individuals who furnish personal care~~
2972 ~~services on its behalf are competent to carry out all assigned tasks in the consumer's~~
2973 ~~place of residence.~~
- 2974 (1) ~~Prior to assignment, the agency manager or supervisor shall conduct a proof of~~
2975 ~~competency evaluation involving the tasks listed in this subsection (D)(1), along~~
2976 ~~with any other tasks that require specific hands-on application.~~
- 2977 (a) ~~Bathing,~~
- 2978 (b) ~~Skin care,~~
- 2979 (c) ~~Hair care,~~
- 2980 (d) ~~Nail care,~~
- 2981 (e) ~~Mouth care,~~
- 2982 (f) ~~Shaving,~~
- 2983 (g) ~~Dressing,~~
- 2984 (h) ~~Feeding,~~
- 2985 (i) ~~Assistance with ambulation,~~

Commented [BM191]: Clarification

Commented [BM192]: Moved to (3) below

Commented [BM193]: Not new language. Relevant for personal care worker only

- 2986 (j) — Exercise and transfers;
- 2987 (k) — Positioning;
- 2988 (l) — Bladder and bowel care, and
- 2989 (m) — Medication reminding.
- 2990 (2) — Performance of the ability to assist in the use of specific adaptive equipment if
2991 the worker will be assisting consumers who use the device.
- 2992 (E) — The agency shall ensure that ongoing supervisory and direct care staff training occurs
2993 and shall consist of at least six (6) topics applicable to the agency's services every 12
2994 months after the starting date of employment or calendar year as designated by agency
2995 policy. The training requirement shall be prorated in accordance with the number of
2996 months the employee was actively working for the agency. Training shall include, but is
2997 not limited to, the following items:
- 2998 (1) — Behavior management techniques and the promotion of consumer dignity,
2999 independence, self-determination, privacy, choice and rights; including abuse
3000 and neglect prevention and reporting requirements.
- 3001 (2) — Disaster and emergency procedures.
- 3002 (3) — Infection control using universal precautions.
- 3003 (4) — Basic first aid and home safety.
- 3004 (F) Training documentation
- 3005 (1) — All training shall be documented.
- 3006 (a) — Classroom type training shall be documented with the date of the
3007 training; starting and ending times; instructors and their qualifications;
3008 short description of content; and staff member's signature.
- 3009 (b) — On-line or self-study training shall be documented with information as to
3010 the content of the training and the entity that offered or produced the
3011 training.

3012 **7.6 TRAINING, COMPETENCY, AND SKILLS VALIDATION DOCUMENTATION**

- 3013 (A) ALL TRAINING, COMPETENCY, AND SKILLS VALIDATION SHALL BE DOCUMENTED BY THE HCA.
- 3014 (1) DOCUMENTED EVIDENCE OF TRAININGS, COMPETENCY TESTING, AND SKILLS
3015 VALIDATION SHALL BE DOCUMENTED WITH THE DATE OF TRAINING; LENGTH OF TRAINING;
3016 ENTITY OR INSTRUCTOR(S) THAT OFFERED OR PRODUCED THE TRAINING; A SHORT
3017 DESCRIPTION OF THE CONTENT; AND STAFF MEMBER'S WRITTEN OR ELECTRONIC
3018 SIGNATURE OR PROOF OF ATTENDANCE.
- 3019 (2) THE HCA SHALL MAINTAIN EVIDENCE OF TRAINING, COMPETENCY TESTING, SKILLS
3020 VALIDATION, AND RELATED CERTIFICATES ALONG WITH PROOF OF COMPLETION IN EACH
3021 INDIVIDUAL'S PERSONNEL FILE.

3022 **7.7 SUPERVISOR OF HOMEMAKERS AND PERSONAL CARE WORKERS**

Commented [BM194]: Modified based on skilled care and moved to 7.6 below

Commented [BM195]: Existing language

- 3023 (A) THE SUPERVISOR SHALL:
- 3024 (1) BE AT LEAST EIGHTEEN (18) YEARS OF AGE;
- 3025 (2) HAVE APPROPRIATE EXPERIENCE OR TRAINING IN THE HOME CARE INDUSTRY OR
3026 CLOSELY RELATED PERSONAL CARE SERVICES IN ACCORDANCE WITH HCA POLICY;
3027 AND
- 3028 (3) HAVE COMPLETED TRAINING IN THE PROVISION OF PERSONAL CARE SERVICES.
- 3029 7.8 SUPERVISION OF HOMEMAKERS AND PERSONAL CARE WORKERS
- 3030 (A) SUPERVISION OF A HOMEMAKER OR PERSONAL CARE WORKER SHALL:
- 3031 (1) BE PERFORMED BY AN EMPLOYEE OF THE HCA QUALIFIED AS A SUPERVISOR UNDER
3032 PART 7.7, WHO IS IN A DESIGNATED SUPERVISORY CAPACITY AND AVAILABLE TO THE
3033 WORKER AT ALL TIMES CARE AND SERVICES ARE BEING PROVIDED;
- 3034 (2) OCCUR AT A MINIMUM OF EVERY THREE (3) MONTHS WHICH AND MUST INCLUDE AN
3035 ASSESSMENT OF CONSUMER SATISFACTION WITH SERVICES AND THE WORKER'S
3036 COMPETENCE AND ADHERENCE TO THE SERVICE PLAN;
- 3037 (A) SUPERVISION SHALL BE CONDUCTED EITHER IN PERSON OR VIA
3038 TELEHEALTH, IN ACCORDANCE WITH TELEHEALTH SUPERVISORY VISITS AT
3039 PART 7.9(A)(1); AND
- 3040 (3) OCCUR, IN PERSON, ANNUALLY FOR EVALUATION OF EACH WORKER PROVIDING
3041 SERVICES IN A CONSUMER'S HOME AND SHALL INCLUDE OBSERVATION OF TASKS
3042 PERFORMED AND RELATIONSHIP WITH THE CONSUMER.
- 3043 (B) EVIDENCE OF ALL SUPERVISORY ACTIVITIES MUST BE DOCUMENTED AND RETAINED IN THE
3044 CONSUMER'S RECORD. DOCUMENTATION SHALL INCLUDE:
- 3045 (1) THE DATE, TIME, METHOD OF DELIVERY, AND LOCATION OF THE SUPERVISORY
3046 ACTIVITY ALONG WITH DOCUMENTATION OF PERSONS PRESENT;
- 3047 (2) SPECIFIC TASKS EVALUATED AND/OR OBSERVED ALONG WITH OUTCOME; AND
- 3048 (3) INFORMATION ON ANY RE-TRAINING, INSTRUCTION, OR OTHER SUPPORT PROVIDED
3049 DURING THE SUPERVISORY ACTIVITY.
- 3050 (C) AN IN-PERSON SUPERVISORY VISIT IS REQUIRED TO EVALUATE CONSUMER COMPLAINTS
3051 RELATED TO THE DELIVERY OF CARE BY STAFF WHEN SUCH CONCERNS CANNOT BE
3052 SUCCESSFULLY ADDRESSED REMOTELY THROUGH AN INTERACTIVE AUDIOVISUAL
3053 CONNECTION.
- 3054 7.9 TELEHEALTH SUPERVISORY VISITS
- 3055 (A) WITH THE EXCEPTION OF THE ANNUAL SUPERVISION REQUIREMENT IN PART 7.8(A)(3) AND
3056 RESPONDING TO CONSUMER COMPLAINTS IN PART 7.8(C), THE HCA MAY CONDUCT
3057 SUPERVISORY VISITS USING TELEHEALTH, SO LONG AS THE HCA CONTINUES TO ENSURE
3058 CONSUMER CARE AND TREATMENT ARE DELIVERED IN ACCORDANCE WITH THE SERVICE PLAN
3059 THAT ADDRESSES THE CONSUMER'S STATUS AND NEEDS.
- 3060 (1) THE DESIGNATED SUPERVISOR MAY EVALUATE THE DELIVERY OF CARE AND

Commented [BM196]: Existing language

Commented [BM197]: Existing language modified to reflect telehealth and to mimic skilled care

Commented [BM198]: Clarification

Commented [BM199]: New language

3061 SERVICES REQUIRED EVERY THREE (3) MONTHS AT PART 7.8(A)(2) THROUGH AN
 3062 INTERACTIVE AUDIOVISUAL CONNECTION WITH THE HOMEMAKER OR PERSONAL CARE
 3063 WORKER AND CONSUMER. THE RESULTS OF THE SUPERVISORY VISIT MUST BE
 3064 DOCUMENTED BY THE QUALIFIED EMPLOYEE.

3065 (B) ALL OTHER GENERAL REQUIREMENTS FOR SUPERVISORY VISITS, SUCH AS DOCUMENTATION AND
 3066 MEETING THE SAME STANDARD OF CARE, MUST BE MET.

Commented [BM200]: From skilled care

3067

3068 Editor's Notes

3069 6 CCR 1011-1 has been divided into separate chapters for ease of use. Versions prior to 05/01/2009 are
 3070 located in the main section, 6 CCR 1011-1. Prior versions can be accessed from the All Versions list on
 3071 the rule's current version page. To view versions effective on or after 05/01/2009, select the desired
 3072 chapter, for example 6 CCR 1011-1 Chapter 04 or 6 CCR 1011-1 Chapter 18.

3073 History

3074 Chapter 26 entire rule eff. 04/30/2009.
 3075 Rules 5.2(A), 5.2(f), 5.4.7(A), 5.4.8 (A) eff. 07/30/2010.
 3076 Rule 5.4.8 eff. 09/30/2011.
 3077 Rule 5.4 eff. 03/01/2012.
 3078 Rules 5.4.4-5.4.7 eff. 03/02/2014.
 3079 Rule 5.4.3 eff. 08/14/2014.
 3080 Rules 3.6, 3.15-3.28, 5.1(B)-5.1(B)(1), 7.8(B)(1), 7.8(C)(2)-7.8(C)(3), 7.9(A)(1)-7.9(A)(2), 7.9(B)(6)-
 3081 7.9(B)(7)(b), 7.10(A), 7.10(C)(1), 7.12(A), 7.12(E), 7.13, 8.5(B)(1), 8.5(D)(20), 8.5(E)(1) eff.
 3082 09/14/2014.
 3083 Rules 3.6, 3.11(B)(8)-3.32, 4.1-4.8(B)(2), 5.2(D), 6.3, 6.7(B) eff. 06/14/2014.
 3084 Rules 5.1-5.1(B)(1)(b), 8.5(D)(17)(a), 8.5(D)(17)(b), 8.5(D)(20), 8.5(E)(1) eff. 05/15/2016.
 3085 Rule 5.1(A) eff. 01/14/2017. Rule 8.5(B)(1) repealed eff. 01/14/2017.
 3086 Rules 5.4.6(A), 5.4.7(A), 6.10(A), 6.14(A) eff. 01/14/2020.

Revisions to 6 CCR 1011-1, Chapter 26, Home Care Agencies

Presented to the Board of Health
December 15, 2021

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Monica Billig, Policy Advisor
Health Facilities and Emergency Medical Services Division



Chapter 26 Rule Revision Overview

- First comprehensive revision since inception of rules in 2009
- Removed duplication to Chapter 2 - General Licensure Standards
- Clarified, streamlined, and reorganized language
- Updated language to support current industry standards and future training programs



Areas of Substantive Change

Part 5 - General Requirements for all License Categories (previously Section 6)

- Added language in consumer rights to ensure consumer safety and provision of adequate care
- Emergency Preparedness was rewritten with assistance of a small workgroup, with the following changes:
 - Added a risk assessment component as part of developing an emergency preparedness plan
 - Modernized outdated language
 - Bolstered existing requirements to support current industry standards and practices and ensure consumer and personnel safety



Areas of Substantive Change

Part 6 - Skilled Care (previously Section 7)

- Removed the Professional Advisory Committee requirement to align with CMS (which had previously removed this requirement) and reduce agency burden
- Modified the written summary report in Plan of Care after extensive stakeholder feedback in order to decrease unnecessary and duplicative paperwork
 - A summary will now only be required for consumers who experienced a change in status or needs that necessitated a change in the plan of care
- Added Telehealth Supervisory Visits to allow for nurse aide supervision to be conducted via telehealth under certain circumstances
- Added Clinical Records to align more closely with CMS record requirements that support accountability and improved consumer outcomes



Areas of Substantive Change

Part 7 - Non-medical/Personal Care (previously Section 8)

- Modifications were made to Governing Body, Administration, and Agency Manager to provide more flexibility in meeting regulations and create a system of greater accountability through evaluation and analysis
- Added Telehealth Supervisory Visits to allow for supervision of homemakers and personal care workers to be conducted via telehealth under certain circumstances



Areas of Substantive Change

Part 7 - Non-medical/Personal Care (previously Section 8) (cont.)

- The Personal Care Worker requirements were restructured to more closely align with the training program being developed by HCPF
 - The new language created a stacked model where “homemaker” is now the base requirement and a “personal care worker” must meet all of the homemaker requirements plus additional requirements specific to their training needs and responsibilities

