



Dedicated to protecting and improving the health and environment of the people of Colorado

To: Members of the State Board of Health

From: Laurie Schoder, Policy Analyst, Health Facilities and Emergency Medical Services Division

Through: D. Randy Kuykendall, MLS; Director *DRK*

Date: September 21, 2016

Subject: Proposed Amendment to 6 CCR 1011-1, Standards for Hospitals and Health Facilities, Chapter 26, Home Care Agencies, with a Request for the Rulemaking Hearing to occur on November 16, 2016

The Division of Health Facilities and Emergency Medical Services is proposing an amendment to Chapter 26, Home Care Agencies, in order to address a concern raised by the Office of Legislative Legal Services over the wording of one sentence. The proposed amendment clarifies the language regarding who is exempt from home care agency licensing.

The proposed amendment does not change current practice regarding licensure as a home care agency, but merely rephrases a sentence that was perceived to exceed the Department's statutory authority. The Division does not anticipate any controversy regarding this minor, but necessary revision.

**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
September 21, 2016

Basis and Purpose:

The one sentence amendment to Chapter 26, Home Care Agencies, is being proposed in order to address a concern raised by the Office of Legislative Legal Services that the wording of the current sentence is confusing and exceeds the Department's statutory authority. The proposed amendment clarifies the language regarding who is exempt from home care agency licensing.

These rules are promulgated pursuant to the following statutes:

Section 25-27.5-101, *et seq.*, C.R.S. (2016)

Section 25-1.5-103, C.R.S. (2016)

Section 25-3-101, *et seq.*, C.R.S. (2016)

SUPPLEMENTAL QUESTIONS

Is this rulemaking due to a change in state statute?

Yes
 No

Is this rulemaking due to a federal statutory or regulatory change?

Yes
 No

Does this rule incorporate materials by reference?

Yes
 No

Does this rule create or modify fines or fees?

Yes
 No

REGULATORY ANALYSIS

For Amendments to 6 CCR 1011-1, Standards for Hospitals and Health Facilities,
Chapter 26, Home Care Agencies
September 21, 2016

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

The proposed amendment clarifies language regarding individuals and groups that are exempt from home care agency licensing requirements, so it theoretically affects that class of persons. In practice, however, the proposed amendment is a semantic, technical change that should have no impact on the affected class.

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

The proposed amendment is necessary to clarify language regarding who is statutorily exempt from the requirements of home care agency licensing. Clarification of that exemption is the quantitative and qualitative impact of the proposed amendment.

- 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.**

There are no costs associated with adoption of this minor amendment.

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

Inaction is not an alternative. Inaction would result in the current rule language not being renewed by the Office of Legislative Legal Services.

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

The determination is that there is no less costly or less intrusive method for achieving the purpose of the amendment.

- 6. Alternative rules or alternatives to rulemaking considered and why rejected.**

No alternative methods were considered. The language of the proposed amendment was negotiated with the senior staff attorney at the Office of Legislative Legal Services.

- 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.**

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No data was analyzed. The proposed amendment is necessary to keep the rule from being invalidated by the Office of Legislative Legal Services.

STAKEHOLDER Comment

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

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

The Office of Legislative Legal Services.

The following individuals and/or entities were notified that this rule-making was proposed for consideration by the Board of Health and early stakeholder participation was encouraged:

All currently licensed home care agencies, the home care advisory committee, the Home Care Association of America and the Home Care Association of Colorado.

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.

There were no major factual or policy issues encountered because the proposed change is primarily a technical semantic change that is necessary to avoid conflict with the enabling home care agency legislation.

Please identify health equity and environmental justice (HEEJ) impacts. Does this proposal impact Coloradoans equally or equitably? Does this proposal provide an opportunity to advance HEEJ? Are there other factors that influenced these rules?

The proposed amendment does not have any health equity or environmental justice impact.

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 Chap 26

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7 SECTION 5. DEPARTMENT OVERSIGHT

8 5.1 License classification

- 9 (A) A home care agency shall be issued a license consistent with the type and extent of services provided.
- 10 ~~Organizations with personal care service employees do not have to be licensed as a home care agency~~
- 11 ~~if the only services they provide to consumers are housekeeping, companionship and/or respite care~~
- 12 ~~that does not involve any other personal care services.~~ AN INDIVIDUAL OR GROUP THAT PROVIDES ONLY
- 13 HOUSEKEEPING AND/OR COMPANIONSHIP AND NO OTHER PERSONAL CARE SERVICES DOES NOT HAVE TO BE
- 14 LICENSED AS A HOME CARE AGENCY.
- 15