



To: Members of the State Board of Health

From: Elaine McManis, Deputy Division Director, and Cheryl McMahon, Home and Community Facilities Branch Chief, Health Facilities & Emergency Medical Services Division

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

Date: October 21, 2021

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

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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 that 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 that were 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.

The Division is requesting that the Board schedule a public rulemaking hearing on the proposed revisions to 6 CCR 1011-1, Chapter 26 - Home Care Agencies.

**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. This change is 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.

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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 CO<sub>2</sub>e (carbon dioxide equivalent) per year to 119.430 million metric tons of CO<sub>2</sub>e per year by June 30, 2020 and to 113.144 million metric tons of CO<sub>2</sub>e 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<sub>x</sub>) from the oil and gas industry.
- Supports local agencies and COGCC in oil and gas regulations.
- Reduces VOC and NO<sub>x</sub> 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 &amp; 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

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 Manzanaras
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
	Bethany Beets
Bayada Home Health Care	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
	Julie Blakie
Boulder Community Health	Lisa Allen
Bridges Homecare and Hospice	Vanessa Boyd
Briggs Home Care/ Abby Senior Care	Sybl Romley
BrightStar Care Home Care	Donny Sepin
	Jasmine Green
BrightStar Care Home Health	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 Ragona
	Cassandra Pratt (Penrose St. Francis Health Services)
Centura Health at Home	Jen Litowkin (Bristlecone Home Health)
	Patricia Vertun
	Tina Gallegos (Mercy Home Care and Hospice)
Circle of Life Home Care	Martha Sparks
	Cecil Crudo
Colorado Care Workers Unite	Melissa Benjamin
	Alicia Ethredge
Colorado Department of Healthcare Policy and Financing	Candace Bailey
	Erin Thatcher

Organization	Representative Name and Title (if known)
	John Lentz
	Kristine Dos Santos
	Matt Colussi
	Todd Coffey
	Beck Furniss, Policy Advisor
	Cassie Lowery
	Cheryl McMahon, Home and Community Facilities Branch Chief
	Christine McGroarty, Fiscal and Administrative Services Branch Chief
Colorado Department of Public Health and Environment	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 Okhian
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
	Jamie Schultz
Pentec Health Inc.	Tim Herrera
	Lorin Chevalier
PeopleCare Health Services	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
	Arah Hof
Rain Home Care	Carol
	Jamie Davis
Rhythms Home Care	Janice Crowley
	David McKendry
Right at Home Grand Junction	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	Jayme
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 10<sup>th</sup> 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: _____ _____

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# 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

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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.

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"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 HHPAA-compliant interactive audio-visual communication or the use of a HHPAA-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)(c)(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

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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.


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**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.

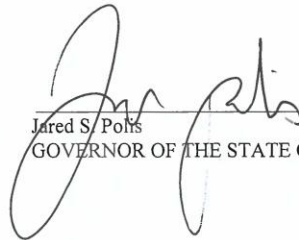
  
Leroy M. Garcia  
PRESIDENT OF  
THE SENATE

  
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 ~~1.1~~ The 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 ~~1.2~~ (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 ~~2.1~~ The 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 3.~~ **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.~~
- 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.~~
- 68 ~~3.112.10~~ "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 the  
76 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.

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

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

- 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~~ **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 ~~s~~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 ~~s~~Section 25-27.5-104(4).
- 102 ~~3.12.2.11~~ "Home care consumer" means a person who receives skilled home health services or  
103 personal care services in his or her ~~temporary or permanent home or place of residence~~ **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 ~~3.13.2.12~~ "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 ~~s~~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 ~~3.14.2.13~~ "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, 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 interdisiplinary 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 3.232.23 "Plan of correction" means a written plan prepared by the home care agency or home  
 160 care placement agency and submitted to the 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 3.252.25 "Qualified Early Intervention Service Provider" has the same meaning set forth in section  
 170 27-10.5-702, C.R.S.
- 171 3.262.26 "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 3.272.27 "Service Agency" means a service agency, as defined in 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 Care Policy and Financing under Part 4 of Article 6 of  
 180 Title 25.5, C.R.S.
- 181 3.282.28 "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 3.292.29 "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 3.302.30 "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 3.342.31 "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 3.322.32 "Supervision" means authoritative procedural guidance by a qualified person for the  
 200 accomplishment of a function or activity.
- 201 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, MAY ESTABLISH A WORKSTATION WITHIN THE AGENCY'S GEOGRAPHIC SERVICE AREA. THE  
 204 SITE PROVIDES A PLACE TO WORK SO THAT DIRECT CARE STAFF CAN DECREASE TRAVEL. CONSUMER  
 205 CHARTS ARE NOT TO BE KEPT AT A WORKSTATION, BUT THE SITE MAY CONTAIN PHONES, FAXES, OFFICE  
 206 SUPPLIES, WOUND CARE SUPPLIES, POLICIES, PROCEDURES, FORMS, ETC. THE WORKSTATION MAY NOT  
 207 BE USED TO ACCEPT REFERRALS; CONDUCT MARKETING, ADMINISTRATIVE ACTIVITIES, OR PERSONNEL  
 208 TRAINING; OR STORE CONSUMER RECORDS. THE WORKSTATION MAY NOT BE STAFFED TO SERVE THE  
 209 PUBLIC AND SIGNAGE AT THE WORKSTATION SHOULD NOT BE POSTED TO INVITE THE PUBLIC INSIDE TO  
 210 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 **A**article 4 of **T**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 H~~istory ~~R~~ecord ~~C~~heck

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

238 (A) ~~Effective June 1, 2015, t~~The 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, 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 ~~d~~Department, 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**  
 271 **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 ~~d~~Department 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 ~~d~~Department 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 Rrestrictions or Ceonditions

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 employeesPERSONNEL, 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 4.3.7 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 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 ~~401, 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 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 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 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 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 ~~(B) If the 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 Department pursuant to section 25-27.5-103(2)(a)(I), C.R.S.~~

382 4.3.8 Registration Procedure

383 (A) An applicant for an initial or renewal home care placement agency registration shall  
384 provide the Department with a complete application including all information and  
385 attachments specified in the application form and any additional information requested by  
386 the 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 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~~ **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 (12) 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~~**C**lassification
- 420 (A) ~~An home care agency~~ **HCA** shall be issued a license consistent with the type and extent  
 421 of services provided.
- 422 (1) Unless otherwise specified, each licensed ~~home care agency~~ **HCA** shall meet the  
 423 requirements in ~~PART~~section ~~65~~ of this chapter as well as ~~PART~~sections ~~67~~  
 424 and/or ~~78~~ depending upon the services provided.
- 425 Class A – a home care agency that provides any skilled healthcare service.  
 426 Agencies with a Class A license may also provide personal care services.
- 427 Class B – a home care agency that provides only personal care services. An  
 428 agency with a Class B license shall not provide any skilled healthcare service.
- 429 (B) An ~~agency~~ **HCA** providing home care services that are regulated by the Colorado  
 430 Department of Health Care Policy and Financing (HCPF), excluding certified agencies  
 431 defined in ~~PART~~section ~~32.4~~ of this chapter, shall be licensed as a Class B agency unless  
 432 otherwise specified below.
- 433 (1) Any ~~agency~~ **HCA** providing services regulated by HCPF or the ~~Department of~~  
 434 ~~Human Services~~ that also provides skilled care or services delivered by a  
 435 licensed professional shall be licensed as a Class A ~~agency~~ **HCA**.
- 436 (a) In reviewing compliance with the requirements of this chapter by the  
 437 Program of All-Inclusive Care for the Elderly (PACE) established in  
 438 Section 25.5-5-412, C.R.S., the ~~D~~department shall coordinate with HCPF  
 439 in regulatory interpretation of both license and certification requirements  
 440 to ensure the intent of similar regulations is congruently met.

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

**Commented [BM24]:** Propose to strike SLS and CES based on conversation with HCPF

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

**Commented [BM25]:** Cross reference to waiver process added at License Procedures, Part 4.2, below

455 (C) Residential facilities

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

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

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

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

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

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

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

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

484 (1) On or after September 1, 2011, a community centered board that is directly  
 485 providing home care services shall be licensed as either a Class A or B home  
 486 care agency HCA depending on the services being provided.

487 (2) On or after September 1, 2011, a service agency that IS CERTIFIED BY HCPF has  
 488 received program approval from the Department of Human Services (DHS) as a  
 489 developmental disabilities service agency under rules promulgated by DHS that  
 490 is providing services pursuant to the supported living services waiver or the  
 491 children's extensive support waiver shall be licensed as either a Class A or B  
 492 home care agency HCA depending on the services being provided.

493 (3D) Pursuant to Section 25.5-10-202(22)27-40-5-109(2), C.R.S., Independent Residential  
 494 Support Services provided by the Colorado Department of Human Services (DHS) do not  
 495 require licensure by the Department.

496 (4E) Nothing in this section relieves an entity that contracts or arranges with a community  
 497 centered board or service agency, and that meets the definition of a "home care agency"  
 498 under section 25-17.5-102, C.R.S., SECTION 25-27.5-102, C.R.S., from the entity's  
 499 obligation to apply for, and operate under, a license in accordance with these regulations.

Commented [BM26]: Propose to strike all of (D)(1) and (2) based on conversation with HCPF

Commented [BM27]: Move (3) and (4) out to new (D) and (E)

Commented [SA28]: Corrected an incorrect statutory reference

500 54.2 License pProcedure

501 (A) The HCA shall comply with the requirements of 6 CCR 1011-1, Chapter 2, regarding  
 502 license application procedures, the process for change of ownership, and the continuing  
 503 obligations of a licensee.

504 (B) When submitting an application for an initial or renewal license, the HCA shall include  
 505 evidence of either liability insurance coverage or a surety bond in lieu of liability insurance  
 506 coverage. Such coverage shall be maintained for the duration of the license period. The  
 507 minimum amount of coverage is:

508 (1) Class A – \$500,000 per occurrence and \$3,000,000 aggregate.

509 (2) Class B – \$100,000 per occurrence and \$300,000 aggregate.

510 (C) The agency shall submit to the Department a list of the contiguous counties that it plans  
 511 to serve, and assure adequate staffing, supervision, consumer care, and services are  
 512 provided within the declared geographical area.

513 (D) With the submission of an application for licensure or within ten (10) calendar days after a  
 514 change in the owner, manager, or administrator, each owner and each manager or  
 515 administrator of a home care agency shall submit a complete set of his or her THEIR  
 516 fingerprints to the Colorado Bureau of Investigation for the purpose of conducting a state  
 517 and national fingerprint-based criminal history record check. Each owner, manager, or  
 518 administrator is responsible for paying the fee established by the Colorado Bureau of  
 519 Investigation for conducting the criminal history record check.

Commented [SA29]: (D)(1)-(3) all come directly from statute at 25-27.5-106(3), and (4)

520 (1) THE DEPARTMENT MAY ACQUIRE A NAME-BASED CRIMINAL HISTORY RECORD CHECK  
 521 FOR AN APPLICANT WHO HAS TWICE SUBMITTED TO A FINGER-PRINT BASED CRIMINAL  
 522 HISTORY RECORD CHECK AND WHOSE FINGERPRINTS ARE UNCLASSIFIABLE.

523 (2) WHEN THE RESULTS OF A FINGER-PRINT BASED CRIMINAL HISTORY RECORD CHECK OF  
 524 AN APPLICANT REVEAL A RECORD OF ARREST WITHOUT A DISPOSITION, THE  
 525 DEPARTMENT SHALL REQUIRE THAT PERSON TO SUBMIT TO A NAME-BASED CRIMINAL  
 526 HISTORY RECORD CHECK.

527 ~~(1)~~(3) No license shall be issued or renewed by the Ddepartment if the owner,  
 528 applicant, or licensee of the home care agency has been convicted of a felony or  
 529 of a misdemeanor, which felony or misdemeanor involves CONSTITUTES A CRIME  
 530 OF moral turpitude or involves conduct that the Ddepartment determines could  
 531 pose a risk to the health, safety, or welfare of HCA consumers.

532 (2)(4) Each HCA owner, applicant, or licensee is under an affirmative obligation to  
 533 inform the Ddepartment if he or she is THEY ARE convicted of a felony or of a  
 534 misdemeanor that involves moral turpitude or conduct that the Ddepartment  
 535 determines could pose a risk to the health, safety, or welfare of HCA consumers.  
 536 Failure to advise the Ddepartment of a conviction may result in non-renewal, or  
 537 other appropriate sanctions, as set forth in PARTSsections 54.7; AND 54.8 and 5.9  
 538 of this chapter.

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

**Commented [BM30]:** Duplicative of Chapter 2; suggest striking

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

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

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

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

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

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

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

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

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

**Commented [BM31]:** Duplicative of Chapter 2; suggest striking

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

567 54.3 Provisional Licenses

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

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

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

576 (1B) If requested by ~~HCPF~~ the Colorado Department of Health Care Policy and  
 577 Financing, the Ddepartment may issue a provisional license for a period of 90  
 578 days to an agency that has applied to be a certified home care agency as defined  
 579 herein.

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

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

583 (2D) No provisional license shall be granted before completion of a criminal  
 584 background check and finding in accordance with ~~PART~~section 54.2 of this  
 585 chapter.

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

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

589 **5.4.4 License Fees**

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

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

595 **5.4.1 (C) Initial licensure**

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

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

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

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

605 **5.4.2 (D) Provisional licensure**

- 606 (A1) Any agencyHCA approved by the Ddepartment for a provisional license, shall  
607 submit a fee equal to FIFTEEN PERCENT (15%) percent of the applicable initial  
608 license fee for each provisional license term.
- 609 (B2) The appropriate fee shall be submitted before issuance of the provisional license.
- 610 (C3) If the Ddepartment finds reasonable compliance by an applicant holding a  
611 provisional license, it shall issue an initial license upon receipt of the license  
612 application and total fee FOR INITIAL LICENSURE AND ANY ADDITIONAL APPROPRIATE  
613 FEES SPECIFIED IN PART 4.4 specified in sections 5.4 and 5.4.1 of this chapter.
- 614 5.4.3 (E) Renewal licensure
- 615 (A1) Base Fee. There shall be a base fee that is determined by the license category  
616 as defined in sectionPART 54.1 of this Cchapter. The renewal license base fee  
617 shall be:
- 618 (A) Class A - \$1,550
- 619 (B) Class B - \$1,325
- 620 (B2) Additional volume fee. Each agencyHCA shall report its annual admissions for  
621 the previous year on its license renewal application. If the number of annual  
622 admissions is FIFTY (50) or more, the agencyHCA shall add the following amount  
623 to its base fee:
- 624 (A) 50 to 99 admissions - \$100
- 625 (B) 100 or more admissions - \$200
- 626 (C3) Medicare or Medicaid service discount. Each agencyHCA that is currently  
627 certified to provide Medicaid or Medicare services shall deduct \$100 from its  
628 base fee.
- 629 (D4) Deeming discount. For licenses that expire on or after September 1, 2014, a  
630 license applicant that is accredited by an accrediting organization recognized by  
631 the Centers for Medicare and Medicaid Services-CMS as having deeming  
632 authority may be eligible for a TEN PERCENT (10%) percent discount off the base  
633 renewal license fee. In order to be eligible for this discount, the license applicant  
634 shall SUBMIT authorize its accrediting organization to submit directly to the  
635 Department copies of ITS MOST RECENT RECERTIFICATION all survey(s), and ANY  
636 plan(s) of correction for the previous license year, along with the most recent  
637 letter of accreditation showing the license applicant has full accreditation status IN  
638 ADDITION TO A COMPLETED RENEWAL APPLICATION.
- 639 5.4.4 (F) Branch and workstation fees
- 640 (A1) In addition to any other licensure fees, the following fees shall apply to the  
641 circumstances described. The fees shall be submitted with the license application  
642 or as otherwise specified.
- 643 (4A) An HCA shall submit a \$200 fee for each branch office as defined in  
644 sectionPART 3.22.2 of this chapter.

Commented [BM35]: Updated language to make more clear; confirmed with CLR that this works.

Commented [BM36]: Modified deeming discount to match the updates we made in Chapter 4, Hospitals

- 645 (a) For existing branches, the fee shall be submitted with the license  
646 application.
- 647 (bii) For new branches, the fee shall accompany the notice of the  
648 agencyHCA's intent to open a branch office pursuant to  
649 sectionPART 65.2 of this chapter.
- 650 (2B) An HCA that operates one or more satellite-work stations solely for the  
651 convenience of direct care staff shall pay a fee of \$50 per workstation.
- 652 5.4.5 (G) Revisit fee
- 653 (A1) An agencyHCA's annual license fee may be increased as the result of a  
654 licensure inspection or substantiated complaint investigation where a deficient  
655 practice is cited that has either caused harm or has the potential to cause harm  
656 to a consumer and the agencyHCA has failed to demonstrate appropriate  
657 correction of the cited deficiencies at the first on-site revisit.
- 658 (B2) The fee shall be ONE HUNDRED PERCENT (100%) percent of the agencyHCA's  
659 initial or renewal license fee and shall be assessed for the second on-site  
660 inspection and each subsequent on-site inspection pertaining to the same  
661 deficiency.
- 662 5.4.6 (H) Change of ownership fee
- 663 (A1) Any agencyHCA meeting the criteria set forth in 6 CCR 1011-1, Chapter 2, Part  
664 2.6 shall pay a change of ownership fee. The fee shall be determined according  
665 to the license classifications set forth in sectionPART 54.1 of this chapter and  
666 submitted with the change of ownership notice. The fee shall be:
- 667 (A) Class A - \$3,000
- 668 (B) Class B - \$2,200
- 669 5.4.7 (I) Change of name and change of address fees
- 670 (A1) A licensed HCA shall conform with the notification requirements of 6 CCR 1011-  
671 1, Chapter 2, Part 2.9.6 regarding any change in the agencyHCA name or  
672 business address.
- 673 (B2) A fee of \$75 shall accompany each notice of a change in agencyHCA name or  
674 business address.
- 675 5.4.5 Inspections
- 676 (A) THE HCA SHALL COMPLY WITH THE REQUIREMENTS OF 6 CCR 1011-1, CHAPTER 2, PARTS  
677 2.9.4, 2.10.1, AND 2.10.2 REGARDING INSPECTIONS, WITH THE FOLLOWING ADDITIONS:
- 678 (A) ~~A certified home care agency that applies for a license by June 1, 2009, shall be exempt~~  
679 ~~from licensure inspection prior to issuance of the initial license.~~
- 680 (B) ~~The Ddepartment shall investigate and review each initial and renewal license application~~  
681 ~~in order to determine an applicant's compliance with this chapter. This determination shall~~  
682 ~~be based on one or more of the following:~~

**Commented [BM37]:** Deadline for implementation has passed.  
Striking as obsolete.

**Commented [BM38]:** Covered by Chapter 2; suggest striking



- 683 (1) ~~An on-site investigation of the agency;~~
- 684 (2) ~~A review of the application and associated documents;~~
- 685 (3) ~~A review of the agency's compliance history, including the results of complaint~~  
686 ~~investigations;~~
- 687 (4) ~~A review of occurrence reports;~~
- 688 (5) ~~A review of material provided by the agency pursuant to a Ddepartment request;~~
- 689 (6) ~~Interviews of agency staff and/or consumers;~~
- 690 (7) ~~A review of information available from national accreditation organizations, CMS,~~  
691 ~~HCPF; and~~
- 692 (8) ~~Any other information the Ddepartment determines is appropriate to ascertain~~  
693 ~~such compliance.~~
- 694 (C1) The Ddepartment shall make such inspections as it deems necessary to ensure  
695 that the health, safety, and welfare of home care consumers are being protected.  
696 In addition to licensure inspections, the Ddepartment may conduct supplemental  
697 inspections at any time in response to complaints alleging noncompliance with  
698 the regulations contained in this chapter.
- 699 (A4) Consumer records kept in the home or individual consumer documents  
700 not included in the HCA's permanent record shall be made available to  
701 the Ddepartment within two (2) hours of request if the last visit occurred  
702 FOURTEEN (14) or more days prior to the request. The time for production  
703 may be extended at the Ddepartment's discretion.
- 704 (B2) The consumer file and administrative records, including, but not limited  
705 to, census and demographic information, complaint and incident reports,  
706 meeting minutes, quality assurance, and annual program review  
707 documents shall be provided to the inspector commencing within THIRTY  
708 (30) minutes of request. The time for production may be extended at the  
709 Ddepartment's discretion.
- 710 (D2) Inspections shall not be conducted in a home care consumer's home without the  
711 consumer's consent.
- 712 (E) ~~The HCA shall provide accurate and truthful information to the Ddepartment during~~  
713 ~~inspections, investigations, and licensing activities. Failure to provide information~~  
714 ~~requested by the Ddepartment and known to the agency shall be grounds for action~~  
715 ~~against a license.~~
- 716 54.6 Plan of eCorrection
- 717 THE HCA SHALL COMPLY WITH THE REQUIREMENTS OF 6 CCR 1011-1, CHAPTER 2, PART 2.10.4(B) REGARDING  
718 A PLAN OF CORRECTION.
- 719 (A) ~~An HCA shall submit to the Ddepartment a written plan of correction detailing measures~~  
720 ~~that will be taken by the agency to correct deficiencies found as a result of inspections~~  
721 ~~and shall be submitted in the form and manner required by the Ddepartment.~~

Commented [BM39]: Duplicative to Chapter 2; suggest striking

- 722 ~~(B) Plans of correction shall be:~~
- 723 ~~(1) Submitted within ten (10) calendar days after the date of the Ddepartment's~~  
724 ~~written notice of deficiencies, and~~
- 725 ~~(2) Signed by the agency administrator.~~
- 726 ~~(C) Corrective actions shall be implemented within 45 days of the exit date or as determined~~  
727 ~~by the Ddepartment.~~
- 728 ~~(D) The Ddepartment has the discretion to approve, modify or reject plans of correction.~~
- 729 ~~(1) If the plan of correction is acceptable, the Ddepartment shall notify the agency.~~
- 730 ~~(2) If the plan of correction is unacceptable, the Ddepartment shall notify the agency~~  
731 ~~in writing and the agency shall re-submit changes to the department within the~~  
732 ~~time frame specified by the Ddepartment.~~
- 733 ~~(3) If the agency fails to comply with the requirements or deadlines for submission of~~  
734 ~~a plan or fails to submit requested changes to the plan, the Ddepartment may~~  
735 ~~reject the plan of correction and impose intermediate restrictions or other~~  
736 ~~disciplinary sanctions as set forth below.~~
- 737 ~~(4) If the agency fails to timely implement the actions agreed to in the plan of~~  
738 ~~correction, the Ddepartment may impose intermediate restrictions or other~~  
739 ~~disciplinary sanctions as set forth below.~~
- 740 **54.7 Intermediate RRestrictions or eConditions**
- 741 (A) The Ddepartment may impose intermediate restrictions or conditions on a license, that  
742 **WHICH** may include at least one of the following:
- 743 (1) Retaining a consultant to address corrective measures;
- 744 (2) Monitoring by the Ddepartment for a specific period;
- 745 (3) Providing additional training to employees**PERSONNEL**, owners, or operators of the  
746 home care agency;
- 747 (4) Complying with a directed written plan to correct the violation,; or
- 748 (5) Paying a civil fine not to exceed \$10,000 per calendar year for all violations.
- 749 (B) If the Ddepartment imposes an intermediate restriction or condition that is not the result  
750 of a serious and immediate threat to health or welfare, the Ddepartment shall provide the  
751 agency with written notice of the restriction or condition. No later than ten (10) days after  
752 receipt of the notice, the agency shall submit a written plan that includes the time frame  
753 for completing the directed plan that addresses the restriction or condition specified.
- 754 (C) If the Ddepartment imposes an intermediate restriction or condition that is the result of a  
755 serious and immediate threat to health, safety, or welfare, the Ddepartment shall notify  
756 the agency in writing, by telephone, or in person during an on-site visit.
- 757 (1) The agency shall remedy the circumstances creating the harm or potential harm  
758 immediately upon receiving notice of the restriction or condition.

**Commented [BM40]:** Covered under Chapter 2; suggest striking

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

#### 772 4.8 ENFORCEMENT AND DISCIPLINARY SANCTIONS

773 THE PROVISIONS OF 6 CCR 1011-1, CHAPTER 2, PART 2.11, REGARDING ENFORCEMENT AND DISCIPLINARY  
774 SANCTIONS, SHALL APPLY.

#### 775 5.8 Revocation or suspension

776 (A) ~~The department may revoke or suspend the license of a home care agency that is out of~~  
777 ~~compliance with the requirements of Section 25-27.5-101, et seq., C.R.S. or these rules.~~

778 (B) ~~The department shall revoke or suspend the license of a home care agency where the~~  
779 ~~owner or licensee has been convicted of a felony or misdemeanor involving moral~~  
780 ~~turpitude or conduct that the department determines could pose a risk to the health,~~  
781 ~~safety or welfare of the consumer of such agency.~~

782 (C) ~~Appeals of departmental revocations or suspensions shall be conducted in accordance~~  
783 ~~with the state Administrative Procedure Act, Section 24-4-101, et seq., C.R.S.~~

#### 784 5.9 Summary suspension

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

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

792 (C) ~~Appeals of summary suspensions shall be conducted in accordance with the state~~  
793 ~~Administrative Procedure Act, Section 24-4-101, et seq., C.R.S.~~

#### 794 5.10.9 Civil Fines

795 (A) If the Ddepartment assesses a civil fine pursuant to PART section 5.7 of this chapter, the money  
796 received by the Ddepartment shall be transmitted to the state treasurer, who shall credit the same to the  
797 GENERAL FUND home care agency cash fund created in Section 25-27.5-105, C.R.S.

**Commented [BM41]:** Suggest striking 5.8 and 5.9 and replacing with 4.8 Chapter 2 reference

**Commented [BM42]:** Covered at Chapter 2, Part 2.11.2

**Commented [BM43]:** Covered at Chapter 2, Part 2.11.3

**Commented [BM44]:** Statutory language

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

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

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

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

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

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

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

811 ~~Section 65.~~ PART GENERAL REQUIREMENTS FOR ALL LICENSE CATEGORIES

812 ~~65.1~~ Out of State Entities

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

816 ~~65.2~~ Branch Offices

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

819 (1) A description of the services to be provided,

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

822 (3) A description of how the parent agency will supervise the branch office ON A DAILY  
823 BASIS.

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

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

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

**Commented [BM45]:** Statute was amended, and this information was removed from statute in 2019 as a result of SB19-146.

**Commented [BM46]:** Language from Ch 2 SOM "Branch offices"

**Commented [BM47]:** Language from Ch 2 SOM "Branch offices"

**Commented [BM48]:** (C) is not new language, moved from original (E) below. (C)(1) and (2) are new.

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

Commented [BM49]: Moved up to new (C).

Commented [BM50]: Language modified from Ch 2 SOM "2182.4B - SA Review of Request for Branch Determination"

Commented [BM51]: Moved to Personnel below and put comments in new language.

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

872 6-45.3 Consumer Rights

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

875 (A1) Assurance of rights

876 (1A) The HCA shall establish and implement written policies and procedures  
 877 regarding the rights of consumers and the implementation of these  
 878 rights. A complete statement of these rights, including the right to file a  
 879 complaint with the Department, shall be distributed to all employees  
 880 and contracted personnel upon hire.

881 (2B) At a minimum, the HCA's policies and procedures shall specify that:

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

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

889 (ciii) The HCA shall protect and promote the exercise of these rights.

890 (B) — Notice of rights

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

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

899 (4A) The rights of the consumer may be exercised by the consumer or  
 900 authorized representative without fear of retribution or retaliation.

901 (2B) The consumer has the right to have THEIR his or her person and property  
 902 treated with respect. The consumer has the right to be free from neglect,  
 903 financial exploitation, verbal, physical, and psychological abuse including  
 904 humiliation, intimidation, or punishment.

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

**Commented [BM52]:** First sentence duplicative of Chapter 2, suggest striking. Keep second sentence.

**Commented [BM53]:** It is not 1 for 1 reference with Chapter 2, suggest keeping.

**Commented [BM54]:** Moved to Disclosure Notices - put all notices in one subpart.

**Commented [BM55]:** 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 [BM56]:** Not new language. Broken out from bullet above.

- 908 (3D) The consumer or authorized representative, upon request to the HCA,  
 909 has the right to be informed of the full name, licensure status, staff  
 910 position, and employer of all persons with whom the consumer has  
 911 contact, and who is supplying, staffing, or supervising care or services.  
 912 ~~The consumer has the right to be served by agency staff that is properly~~  
 913 ~~trained and competent to perform their duties.~~
- 914 (E) ~~THE CONSUMER HAS THE RIGHT TO BE SERVED BY AGENCY STAFF WHO ARE~~  
 915 ~~PROPERLY TRAINED AND COMPETENT TO PERFORM THEIR DUTIES.~~
- 916 (4F) The consumer has the right to live free from involuntary confinement,  
 917 and to be free from physical or chemical restraints as defined in 6 CCR  
 918 1011-1, Chapter 2, Part 8.
- 919 (5G) The consumer or authorized representative has the right to express  
 920 complaints verbally, or in writing, about services or care that is or is not  
 921 furnished, or about the lack of respect for the consumer's person or  
 922 property by anyone who is furnishing services on behalf of the HCA.
- 923 (6H) ~~The consumer shall have~~HAS the right to confidentiality of all records,  
 924 communications, and personal information. ~~The HCA shall advise the~~  
 925 ~~consumer of the agency's policies and procedures regarding disclosure~~  
 926 ~~of clinical information and records.~~
- 927 (I) ~~THE HCA SHALL ADVISE THE CONSUMER OF THE AGENCY'S POLICIES~~  
 928 ~~AND PROCEDURES REGARDING DISCLOSURE OF CLINICAL~~  
 929 ~~INFORMATION AND RECORDS.~~
- 930 (D3) Right to be informed and to participate in planning care and ~~services~~
- 931 (4A) The HCA shall inform the consumer or authorized representative, in  
 932 advance, about the care, ~~METHOD OF DELIVERY~~, and services to be  
 933 furnished, and of any changes in the care, ~~METHOD OF DELIVERY~~, and  
 934 services to be furnished, to enable the consumer to give informed  
 935 consent.
- 936 (a) The consumer has the right to refuse treatment, within the  
 937 confines of the law, to be informed of the consequences of such  
 938 action, and to be involved in experimental research only upon  
 939 the consumer's voluntary written consent.
- 940 (bii) The consumer has the right to be told, in advance of receiving  
 941 care, about the services that will be provided, the disciplines that  
 942 will be utilized to furnish care, the frequency of visits proposed to  
 943 be furnished, ~~THE METHOD OF DELIVERY OF SERVICES AND ANY~~  
 944 ~~CHANGES IN THE METHOD OF DELIVERY OF SERVICES~~, and the  
 945 consequences of refusing care or services.
- 946 (iii) ~~THE CONSUMER HAS THE RIGHT TO REFUSE TO CHANGE FROM AN IN-~~  
 947 ~~PERSON METHOD OF DELIVERY OF SERVICES TO A TELEHEALTH~~  
 948 ~~METHOD OF DELIVERY. IF THE CONSUMER REFUSES, THEIR SERVICES~~  
 949 ~~SHALL CONTINUE IN PERSON.~~

**Commented [BM57]:** Not new language. Broken out from bullet above.

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

**Commented [BM59]:** More specific than Ch 2; suggest keeping

950 (2B) The HCA shall offer the consumer, or authorized representative, the right  
 951 to participate in developing the plan of care, and receive instruction and  
 952 education regarding the plan.

953 (a) The HCA shall advise the consumer, in advance, of the right to  
 954 participate in planning the care or treatment, and in planning  
 955 changes in the care or treatment.

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

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

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

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

970 (4A) If an agency HCA is implementing a scheduled rate increase to all  
 971 clients CONSUMERS, the agency HCA shall provide a written notice to each  
 972 affected consumer at least THIRTY (30) days before implementation.

973 (2B) The HCA shall advise the consumer of any individual changes, orally and  
 974 in writing, as soon as possible, but no later than five (5) business days  
 975 from the date that the HCA becomes aware of a change.

976 (3C) An HCA shall not assume power of attorney or guardianship over a  
 977 consumer utilizing the services of the HCA, require a consumer to  
 978 endorse checks over to the HCA, or require a consumer to execute or  
 979 assign a loan, advance, financial interest, mortgage, or other property in  
 980 exchange for future services.

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

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

Commented [BM60]: Propose to strike here and move to Disclosure Notices below.

Commented [BM61]: Some of (5) and (6) from SOM. Propose to keep as is.

Commented [BM62]: Moved sentence to Disclosure Notices.

Commented [BM63]: Not new language. Broken out from (6) above.



992 (H7) The HCA shall make available to the consumer or authorized representative,  
 993 upon request, a written notice listing all individuals or other legal entities having  
 994 ownership or controlling interest in the agency.

995 (A) WHEN A CHANGE OF OWNERSHIP OCCURS, THE NEW OWNER SHALL SEND A  
 996 WRITTEN NOTICE TO ALL OF THE HCA'S CONSUMERS LISTING ALL OF THE NEW  
 997 OWNERS, AND GIVE THE CONSUMER THE OPPORTUNITY TO CONTINUE  
 998 SERVICES WITH THE HCA OR RECEIVE ASSISTANCE IN TRANSFERRING CARE  
 999 AND SERVICES TO A DIFFERENT HCA.

1000 (I8) The HCA shall maintain documentation showing that it has complied with the  
 1001 requirements of this section.

#### 1002 6.55.4 Admissions

1003 (A) Agencies shall only accept consumers for care or services on the basis of a reasonable  
 1004 assurance that the needs of the consumer can be met adequately by the agency in the  
 1005 individual's temporary or permanent home or place of residence.

1006 (1) There shall be initial documentation of the agreed upon days and times of  
 1007 services to be provided, based upon the consumer's needs, that is updated at  
 1008 least annually.

1009 (B) If an agency receives a referral of a consumer who requires care or services that are not  
 1010 available at the time of referral, the agency shall advise the consumer's primary care  
 1011 provider, if applicable, and the consumer or authorized representative of that fact.

1012 (1) The agency shall only admit the consumer if the primary care provider and the  
 1013 consumer or consumer's representative agree the ordered services can be  
 1014 delayed or discontinued.

#### 1015 6.65.5 Discharge Planning

1016 (A) There shall be a specific plan for discharge in the consumer record, and there shall be  
 1017 ongoing discharge planning with the consumer.

1018 (B) If no improvement or no discharge is expected, the agency shall document THIS FINDING in  
 1019 the consumer record ~~this assessment~~.

1020 (C) The HCA shall assist each consumer or authorized representative to find an appropriate  
 1021 placement with another agency if the consumer continues to require care and/or services  
 1022 upon discharge. The HCA shall document due diligence in ensuring continuity of care  
 1023 upon discharge, as necessary, to protect the consumer's safety and welfare.

1024 (D) Once admitted, an HCA shall not discontinue or refuse services to a consumer unless  
 1025 documented efforts have been made to resolve the situation that triggered such  
 1026 discontinuation or refusal to provide services.

1027 (1) The consumer or authorized representative shall be notified, verbally and in  
 1028 writing, of the agency's intent to discharge and the reasons for the discharge.

1029 (E) AN HCA SHALL NOTIFY THE DEPARTMENT BEFORE IT INITIATES DISCHARGE OF ANY CONSUMER  
 1030 WHO REQUIRES AND DESIRES CONTINUING PAID CARE OR SERVICES WHERE THERE ARE NO  
 1031 KNOWN TRANSFER ARRANGEMENTS TO PROTECT THE CONSUMER'S HEALTH, SAFETY, OR  
 1032 WELFARE.

Commented [BM64]: Modified from ALR language

Additional guidance language on who needs to be listed.

1033 (1) EMERGENCY DISCHARGES NECESSARY TO PROTECT THE SAFETY AND WELFARE OF  
 1034 STAFF SHALL BE REPORTED TO THE DEPARTMENT WITHIN FORTY-EIGHT (48) HOURS OF  
 1035 THE OCCURRENCE.]

**Commented [BM65]:** Not new language. Moved from Agency Reporting Requirements.

1036 6.75.6 Disclosure Notices

1037 (A) AGENCY DISCLOSURE NOTICE

1038 (A1) WITHIN ONE (1) BUSINESS DAY OF THE START OF SERVICES, THE HCA shall provide a  
 1039 written disclosure notice to the consumer, or authorized representative, ~~within~~  
 1040 ~~one (1) business day of the start of services~~ that specifies the service provided  
 1041 by the HCA and the consumer's obligation regarding the home care worker.

1042 (B2) The disclosure notice, in the form and manner prescribed by the Department,  
 1043 shall be signed by the consumer or authorized representative, and shall include  
 1044 information as to who is responsible for the following items:

- 1045 (4A) Employment of the home care worker,
- 1046 (2B) Liability for the home care worker while in the consumer's home,
- 1047 (3C) Payment of wages to the home care worker,
- 1048 (4D) Payment of employment and social security taxes,
- 1049 (5E) Payment of unemployment, worker's compensation, general liability  
 1050 insurance, and, if provided, bond insurance.
- 1051 (6F) Supervision of the home care worker,
- 1052 (7G) Scheduling of the home care worker,
- 1053 (8H) Assignment of duties to the home care worker,
- 1054 (9I) Hiring, firing, and discipline of the home care worker,
- 1055 (40J) Provision of materials or supplies for the home care worker's use in  
 1056 providing services to the consumer, and
- 1057 (14K) Training and ensuring qualifications that meet the needs of the  
 1058 consumer.

1059 (C3) WITHIN ONE (1) BUSINESS DAY OF THE START OF SERVICES, THE HCA shall ensure  
 1060 that the consumer, or authorized representative, acknowledges the disclosure  
 1061 notice ~~is within one (1) business day of the start of services.~~

1062 (A) IN THE EVENT THE CONSUMER REFUSES TO ACKNOWLEDGE THE DISCLOSURE  
 1063 NOTICE IN WRITING, THE HCA WILL DOCUMENT THE CONVEYANCE OF  
 1064 INFORMATION VERBALLY TO THE CONSUMER OR AUTHORIZED  
 1065 REPRESENTATIVE.

1066 (B) NOTICE OF CONSUMER RIGHTS

1067 (1) WITHIN ONE (1) BUSINESS DAY OF THE START OF SERVICES, THE HCA SHALL PROVIDE  
 1068 THE CONSUMER OR AUTHORIZED REPRESENTATIVE WITH A NOTICE OF THE CONSUMER'S

1069 RIGHTS, IN THE FORM AND MANNER PRESCRIBED BY THE DEPARTMENT, AND IN A  
1070 MANNER THAT THE CONSUMER UNDERSTANDS.

1071 (2) THE NOTICE SHALL INCLUDE INFORMATION ABOUT THE CONSUMER'S OPTIONS IF RIGHTS  
1072 ARE VIOLATED, INCLUDING HOW TO CONTACT AN INDIVIDUAL EMPLOYED WITH THE HCA  
1073 WHO IS RESPONSIBLE FOR THE COMPLAINT INTAKE, AND PROBLEM RESOLUTION  
1074 PROCESS.

**Commented [BM66]:** Not new language. From Notice of rights above.

1075 (C) WITHIN ONE (1) BUSINESS DAY OF THE START OF SERVICES, THE HCA SHALL INFORM THE  
1076 CONSUMER CONCERNING THE AGENCY'S POLICIES ON ADVANCE DIRECTIVES, INCLUDING A  
1077 DESCRIPTION OF APPLICABLE STATE LAW. THE HCA MAY FURNISH ADVANCE DIRECTIVES  
1078 INFORMATION TO A CONSUMER AT THE TIME OF THE FIRST HOME VISIT, AS LONG AS THE  
1079 INFORMATION IS FURNISHED BEFORE CARE IS PROVIDED.

1080 (D) WITHIN ONE (1) BUSINESS DAY OF THE START OF SERVICES, THE HCA SHALL INFORM THE  
1081 CONSUMER OR AUTHORIZED REPRESENTATIVE, ORALLY AND IN WRITING, OF THE EXTENT TO  
1082 WHICH PAYMENT FOR THE HCA SERVICES MAY BE EXPECTED FROM INSURANCE OR OTHER  
1083 SOURCES, AND THE EXTENT TO WHICH PAYMENT MAY BE REQUIRED FROM THE CONSUMER.

**Commented [BM67]:** Not new language. Moved from above.

1084 (E) WHEN THE HCA ACCEPTS THE CONSUMER FOR TREATMENT OR CARE, THE HCA SHALL INFORM  
1085 THE CONSUMER IN WRITING OF THE TELEPHONE NUMBER OF THE HOME HEALTH HOTLINE  
1086 ESTABLISHED BY THE STATE, THE HOURS OF ITS OPERATION, AND THAT THE PURPOSE OF THE  
1087 HOTLINE IS TO RECEIVE COMPLAINTS OR QUESTIONS ABOUT LOCAL HCAs.

**Commented [BM68]:** Not new language. Broken out from above.

1088 (F) THE HCA SHALL MAINTAIN DOCUMENTATION SHOWING THAT IT HAS COMPLIED WITH THE  
1089 REQUIREMENTS OF THIS SECTION.

**Commented [BM69]:** Not new language. Duplicated from the Right to be informed section above.

1090 ~~6.8 Non-competo agreements~~

1091 (A) ~~An HCA shall not coerce, threaten, or use any means of intimidation to prevent an~~  
1092 ~~employee from terminating the employment relationship and commencing employment at~~  
1093 ~~another HCA.~~

1094 (B) ~~Non-competo clauses, agreements or contracts shall only be enforceable in accordance~~  
1095 ~~with Section 8-2-113, C.R.S.~~

**Commented [BM70]:** 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.

1096 6.95.7 Complaint Processing

1097 (A) The HCA shall develop and implement policies to include the following items:

1098 (1) Investigation of complaints made by a consumer or others about services or care  
1099 that is or is not furnished, or about the lack of respect for the consumer's person  
1100 or property by anyone furnishing services on behalf of the HCA.

1101 (2) Documentation of the existence, the investigation, and the resolution of the  
1102 complaint. ~~The agency shall notify the complainant of the results of the~~  
1103 ~~investigation and the agency's plan to resolve any issue identified.~~

1104 (A) THE AGENCY SHALL NOTIFY THE COMPLAINANT OF THE RESULTS OF THE  
1105 INVESTIGATION AND THE AGENCY'S PLAN TO RESOLVE ANY ISSUE IDENTIFIED.

**Commented [SA71]:** Not new language. Broken out from above.

1106 (3) Incorporation of the substantiated findings into it's ~~THE HCA'S~~ quality assurance  
1107 program in order to evaluate and implement systemic changes, where needed.

- 1108 (4) ~~AN~~ explicit statement that the HCA does not discriminate or retaliate against a  
 1109 consumers for expressing a complaint or multiple complaints.
- 1110 (5) Maintenance of a separate ~~WRITTEN OR ELECTRONIC~~ record/log/file detailing all  
 1111 activity regarding complaints received, and their investigation and resolution  
 1112 thereof. ~~The record shall be maintained for at least a two (2) year period of time  
 1113 and shall be available for audit and inspection purposes.~~
- 1114 (A) ~~THE RECORD SHALL BE MAINTAINED FOR AT LEAST A TWO (2) YEAR PERIOD OF~~  
 1115 ~~TIME AND SHALL BE AVAILABLE FOR AUDIT AND INSPECTION PURPOSES.~~
- 1116 6.405.8 Agency ~~R~~Reporting ~~R~~Requirements
- 1117 (A) Each HCA shall comply with the occurrence reporting requirements set forth in 6 CCR  
 1118 1011, Chapter 2, Part 4.2. ~~THE PROVISIONS OF 6 CCR 1011-1, CHAPTER 2, PART 4.2,~~  
 1119 ~~REGARDING OCCURRENCE REPORTING REQUIREMENTS SHALL APPLY.~~
- 1120 (B) ~~The agency shall investigate each reportable occurrence and institute appropriate~~  
 1121 ~~measures to prevent similar future occurrences. THE HCA SHALL DEVELOP AND IMPLEMENT~~  
 1122 ~~POLICIES AND PROCEDURES REGARDING THE INVESTIGATION OF REPORTABLE OCCURRENCES~~  
 1123 ~~AND ANY ALLEGED INCIDENTS INVOLVING NEGLIGENCE, ABUSE, OR PERSONNEL MISCONDUCT,~~  
 1124 ~~INCLUDING BUT NOT LIMITED TO:~~
- 1125 (1) ~~THE INVESTIGATION OF ALL ALLEGED INCIDENTS INVOLVING NEGLIGENCE, ABUSE, OR~~  
 1126 ~~PERSONNEL MISCONDUCT IN A TIMELY MANNER.~~
- 1127 (2) ~~THE INVESTIGATION OF EACH REPORTABLE OCCURRENCE AND APPROPRIATE MEASURES~~  
 1128 ~~INSTITUTED TO PREVENT SIMILAR FUTURE OCCURRENCES.~~
- 1129 (A) ~~A REPORT WITH THE INVESTIGATION FINDINGS SHALL BE AVAILABLE FOR~~  
 1130 ~~REVIEW BY THE DEPARTMENT WITHIN FIVE (5) WORKING DAYS OF THE~~  
 1131 ~~OCCURRENCE.~~
- 1132 (3) ~~ADMINISTRATIVE PROCEDURES TO BE IMPLEMENTED TO PROTECT THE HCA'S~~  
 1133 ~~CONSUMERS DURING THE INVESTIGATION PROCESS.~~
- 1134 (14) Documentation regarding the investigation, including the appropriate measures  
 1135 to be instituted, ~~THAT~~ shall be made available to the ~~d~~Department, upon request.
- 1136 (2) ~~A report with the investigation findings shall be available for review by~~  
 1137 ~~the dDepartment within five (5) working days of the occurrence.~~
- 1138 (C) Nothing in this section ~~5.86-40~~ shall be construed to limit or modify any statutory or  
 1139 common-law right, privilege, confidentiality, or immunity.
- 1140 (D) ~~An HCA shall notify the dDepartment before it initiates discharge of any consumer who~~  
 1141 ~~requires and desires continuing paid care or services where there are no known transfer~~  
 1142 ~~arrangements to protect the consumer's health, safety, or welfare.~~
- 1143 (1) ~~Emergency discharges necessary to protect the safety and welfare of staff shall~~  
 1144 ~~be reported to the dDepartment within 48 hours of the occurrence.~~
- 1145 (E) ~~The home care agency shall ensure that all staff have knowledge of Article 3.1 of Title 26,~~  
 1146 ~~G.R.S. regarding protective services for at risk adults, and that all incidents involving~~

Commented [SA72]: Not new language. Broken out from above.

Commented [BM73]: Updated to match language

Commented [BM74]: Stricken here and moved to (B)(2) below.

Commented [BM75]: Not new language. Moved from original (E)(3)

Commented [BM76]: Not new language. From original (B) above.

Commented [BM77]: Not new language. From below.

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

Commented [BM79]: Stricken here and moved to Discharge Planning above.

1147 neglect, abuse or financial exploitation are reported immediately, through established  
1148 procedures, to the agency administrator or manager.

1149 (1) Any home care agency that provides care and/or services to pediatric  
1150 consumers, shall ensure that all staff have knowledge of Part 3 of Article 3 of  
1151 Title 19, C.R.S. regarding child abuse or neglect, and that all incidents involving  
1152 child abuse or neglect are reported immediately, through established procedures,  
1153 to the agency administrator or manager.

1154 (2) The agency shall report the incident to the appropriate officials as specified in the  
1155 statute and, if applicable, to the department as an occurrence. The agency shall  
1156 make copies of all such reports available to the department upon request.

1157 (3) The agency shall document that all alleged incidents involving neglect, abuse, or  
1158 health professional misconduct are thoroughly investigated in a timely manner.  
1159 The agency shall develop and implement a policy that addresses what  
1160 administrative procedures will be implemented to protect its consumers during  
1161 the investigation process.

1162 (D) MANDATORY REPORTING

1163 (1) HCA PERSONNEL ENGAGED IN THE CARE OR TREATMENT OF AT-RISK PERSONS SHALL  
1164 REPORT SUSPECTED PHYSICAL OR SEXUAL ABUSE, EXPLOITATION, AND/OR CARETAKER  
1165 NEGLECT TO LAW ENFORCEMENT WITHIN TWENTY-FOUR (24) HOURS OF OBSERVATION  
1166 OR DISCOVERY PURSUANT TO SECTION 18-6.5-108, C.R.S.

1167 (2) HCA PERSONNEL ENGAGED IN THE CARE OR TREATMENT OF CHILDREN SHALL REPORT  
1168 SUSPECTED ABUSE OR NEGLECT TO THE COUNTY DEPARTMENT, LOCAL LAW  
1169 ENFORCEMENT, OR TO THE CHILD ABUSE REPORTING HOTLINE PURSUANT TO SECTION  
1170 19-3-304 AND 307, C.R.S.

1171 (3) THE HCA SHALL ENSURE ALL PERSONNEL HAVE KNOWLEDGE OF THESE  
1172 REQUIREMENTS.

1173 (4) THE HCA SHALL REPORT THE INCIDENT TO THE DEPARTMENT AS AN OCCURRENCE, IF  
1174 APPLICABLE.

1175 6.115.9 Personnel records and policies

1176 (A) POLICIES

1177 (1) Agency policy shall direct any program or service offered by the HCA directly or  
1178 under arrangement is provided in accordance with the plan of care and agency  
1179 policy and procedure.

1180 (1) The HCA shall define the required competence, qualifications, and experience of  
1181 staff PERSONNEL in each program or service it provides.

1182 (2) Personnel policies shall be available to all full and part-time employees.

1183 (2) THE HCA SHALL ENSURE THAT ALL PERSONNEL HAVE ACCESS TO AND ARE  
1184 KNOWLEDGEABLE ABOUT THE HCA'S POLICIES AND PROCEDURES.

1185 (B) RECORDS

**Commented [BM80]:** Recommend striking here and updating language to reflect statutory changes in new (D) below.

**Commented [BM81]:** Moved to (B)(1) and (B)(3) above.

**Commented [BM82]:** Verbal abuse is covered under caretaker neglect in the statute. Will add language into guidance document.

**Commented [BM83]:** (1) and (2) new language based on updated statutory requirements.

**Commented [BM84]:** (3) and (4) not new language. Modified from original (E).

**Commented [BM85]:** Recommend striking here and moving to individual parts (skilled and non-skilled).

**Commented [SA86]:** Suggested modification of existing (2)

- 1186 (1) Personnel records for all employees shall include references, dates of  
 1187 employment and separation from the HCA agency, and the reason for  
 1188 separation. Personnel records for all employees shall also include:
- 1189 (2) PERSONNEL RECORDS SHALL INCLUDE, AT A MINIMUM:
- 1190 (A4) Qualifications and licensure that are kept current.
- 1191 (1a) Qualifications include confirmation of type and depth of  
 1192 experience, advanced skills, training and education; and  
 1193 appropriate, detailed, and observed competency evaluation; and  
 1194 written testing overseen by a person with the same or higher  
 1195 validated qualifications.
- 1196 (B2) Orientation to the agency,
- 1197 (C3) Job descriptions for all positions assigned by the agency, and
- 1198 (D4) Annual performance evaluation for each employee.
- 1199 (C) CRIMINAL HISTORY RECORD CHECKS
- 1200 (1) THE HCA SHALL REQUIRE ANY INDIVIDUAL SEEKING EMPLOYMENT WITH THE AGENCY TO  
 1201 SUBMIT TO A CRIMINAL HISTORY RECORD CHECK TO ASCERTAIN WHETHER THE  
 1202 INDIVIDUAL SEEKING EMPLOYMENT HAS BEEN CONVICTED OF A FELONY OR  
 1203 MISDEMEANOR, WHICH FELONY OR MISDEMEANOR INVOLVES CONDUCT THAT THE  
 1204 AGENCY DETERMINES COULD POSE A RISK TO THE HEALTH, SAFETY, OR WELFARE OF  
 1205 HOME CARE CONSUMERS.
- 1206 (2) THE CRIMINAL HISTORY RECORD CHECK SHALL, AT A MINIMUM, INCLUDE A SEARCH OF  
 1207 CRIMINAL HISTORY IN THE STATE OF COLORADO AND BE CONDUCTED NOT MORE THAN  
 1208 NINETY (90) DAYS PRIOR TO EMPLOYMENT OF THE INDIVIDUAL.
- 1209 (3) THE COST OF SUCH INQUIRY SHALL BE PAID BY EITHER THE HCA OR THE INDIVIDUAL  
 1210 SEEKING EMPLOYMENT.
- 1211 (4) IN ASSESSING WHETHER TO EMPLOY AN APPLICANT WITH A FELONY OR MISDEMEANOR  
 1212 CONVICTION, THE HCA SHALL CONSIDER THE FOLLOWING FACTORS:
- 1213 (A) THE HISTORY OF CONVICTIONS, PLEAS OF GUILTY OR NO CONTEST;
- 1214 (B) THE NATURE AND SERIOUSNESS OF THE CRIMES;
- 1215 (C) THE TIME THAT HAS ELAPSED SINCE THE CONVICTION(S);
- 1216 (D) WHETHER THERE ARE ANY MITIGATING CIRCUMSTANCES; AND
- 1217 (E) THE NATURE OF THE POSITION FOR WHICH THE APPLICANT WOULD BE  
 1218 EMPLOYED.
- 1219 (5) THE HCA SHALL DEVELOP AND IMPLEMENT POLICIES AND PROCEDURES REGARDING  
 1220 THE EMPLOYMENT OF ANY INDIVIDUAL WHO IS CONVICTED OF A FELONY OR  
 1221 MISDEMEANOR TO ENSURE THAT THE INDIVIDUAL DOES NOT POSE A RISK TO THE  
 1222 HEALTH, SAFETY, AND WELFARE OF THE CONSUMER.

**Commented [BM87]:** Not new language. Broken out from above.

**Commented [SA88]:** Consistent with statutory requirements found at Section 25-27.5-107, C.R.S.

**Commented [BM89]:** Not new language. Moved from its own subpart above.

1223 (D) BEFORE EMPLOYING ANY INDIVIDUAL TO PROVIDE DIRECT CONSUMER CARE OR SERVICES, THE  
 1224 HCA MUST SHOW COMPLIANCE WITH THE COLORADO ADULT PROTECTIVE SERVICES DATA  
 1225 SYSTEM (CAPS CHECK) REQUIREMENTS AS SET FORTH IN SECTION 26-3.1-111, C.R.S., AND 6  
 1226 CCR 1011-1, CHAPTER 2, PART 2.3.6.

Commented [BM90]: Language from Chapter 2

1227 (E) Before employing any individual to provide direct consumer care or services, the agency  
 1228 shall contact the Colorado Department of Regulatory Agencies (DORA) to verify whether  
 1229 a license, registration, or certification exists and is in good standing. A copy of the  
 1230 inquiry shall be placed in the individual's personnel file.

1231 (F) CONTRACTED PERSONNEL

Commented [BM91]: Not new language. Moved from its own subpart below.

1232 (1) IF CONTRACTED PERSONNEL ARE USED BY THE HCA, THERE SHALL BE A WRITTEN  
 1233 CONTRACT THAT SPECIFIES THE FOLLOWING:

1234 (A) THAT CONSUMERS ARE ACCEPTED FOR CARE ONLY BY THE PRIMARY HCA;

1235 (B) THE SPECIFIC SERVICES TO BE FURNISHED;

1236 (C) THE NECESSITY TO CONFORM TO ALL APPLICABLE AGENCY POLICIES,  
 1237 INCLUDING PERSONNEL QUALIFICATIONS;

1238 (D) THE RESPONSIBILITY FOR PARTICIPATING IN DEVELOPING PLANS OF CARE OR  
 1239 SERVICE;

1240 (E) THE MANNER IN WHICH SERVICES WILL BE CONTROLLED, COORDINATED, AND  
 1241 EVALUATED BY THE PRIMARY HCA;

1242 (F) THE PROCEDURES FOR SUBMITTING CLINICAL/SERVICE NOTES, SCHEDULING OF  
 1243 VISITS, AND PERIODIC CONSUMER EVALUATION; AND

1244 (G) THE PROCEDURES FOR PAYMENT FOR SERVICES FURNISHED UNDER THE  
 1245 CONTRACT.

1246 (2) PERSONNEL POLICIES SHALL BE AVAILABLE TO ALL CONTRACTED PERSONNEL.

1247 6-125.10 Emergency Preparedness

Commented [BM92]: 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.

1248 (A) THE HCA SHALL CONDUCT A RISK ASSESSMENT OF THE HAZARDS OR POTENTIAL EMERGENCY  
 1249 SITUATIONS THE HCA COULD ENCOUNTER.

1250 (1) THIS ASSESSMENT SHALL ADDRESS, BUT NOT BE LIMITED TO, THE FOLLOWING  
 1251 CONSIDERATIONS:

1252 (A) GEOGRAPHICAL LOCATION OF THE HCA, ANY BRANCH OFFICES AND  
 1253 WORKSTATIONS, AND ITS CONSUMERS;

1254 (B) NEEDS OF THE HCA'S CONSUMER POPULATION; AND

1255 (C) POTENTIAL NATURAL AND HUMAN-MADE CRISES THAT IMPACT THE HCA'S  
 1256 ABILITY TO OPERATE, INCLUDING BUT NOT LIMITED TO, EXTREME WEATHER,  
 1257 FIRE, POWER OR INTERNET/COMMUNICATION OUTAGES, THREATENED OR  
 1258 ACTUAL ACTS OF VIOLENCE, AND PANDEMIC OR DISEASE OUTBREAK EVENTS.

1259 (2) THE ASSESSMENT SHALL BE DOCUMENTED.

- 1260 (3) THE ASSESSMENT SHALL BE REVIEWED AT LEAST ANNUALLY, AND UPDATED AS  
1261 NECESSARY.
- 1262 (B) THE HCA SHALL DEVELOP A WRITTEN EMERGENCY PREPAREDNESS PLAN, BASED ON THE  
1263 RESULTS OF THE ASSESSMENT REQUIRED IN PART 5.10(A), WHICH IS DESIGNED TO MANAGE  
1264 CONSUMERS' CARE AND SERVICES, AND IMPLEMENT THE PLAN IN RESPONSE TO THE  
1265 CONSEQUENCES OF NATURAL DISASTERS OR OTHER EMERGENCIES THAT DISRUPT THE HCA'S  
1266 ABILITY TO PROVIDE CARE AND SERVICES OR THREATENS THE LIVES OR SAFETY OF ITS  
1267 CONSUMERS.
- 1268 (C) THE EMERGENCY PREPAREDNESS PLAN SHALL BE REVIEWED AT LEAST ANNUALLY OR AFTER ANY  
1269 EMERGENCY RESPONSE, AND SHALL BE UPDATED AS NECESSARY.
- 1270 (D) PERSONNEL SHALL BE TRAINED ON THE EMERGENCY PREPAREDNESS PLAN UPON HIRE, AND AT  
1271 LEAST ANNUALLY OR WHEN ANY CHANGES IN THE EMERGENCY PREPAREDNESS PROCESS,  
1272 PROCEDURES, OR RESPONSIBILITIES ARE MADE.
- 1273 (E) AT A MINIMUM, THE EMERGENCY PREPAREDNESS PLAN SHALL INCLUDE THE FOLLOWING:
- 1274 (1) STRATEGIES FOR ADDRESSING EMERGENCY SITUATIONS IDENTIFIED BY THE RISK  
1275 ASSESSMENT;
- 1276 (2) IDENTIFICATION OF PERSONNEL RESPONSIBLE FOR RESPONDING TO EMERGENCY  
1277 SITUATIONS AND IMPLEMENTING THE PLAN;
- 1278 (3) PROCEDURES TO CONTACT PERSONNEL AND CONSUMERS IMPACTED BY AN  
1279 EMERGENCY;
- 1280 (4) A MECHANISM FOR ASSESSING AND TRIAGING THE NEEDS OF ITS CONSUMERS TO  
1281 ENSURE CONTINUATION OF NECESSARY CARE FOR ALL CONSUMERS DURING AN  
1282 EMERGENCY. THE HCA SHALL CONTINUALLY ASSESS THE STATUS OF ITS CONSUMERS  
1283 TO ENSURE THEY ARE TRIAGED APPROPRIATELY BASED ON NEEDS;
- 1284 (5) STRATEGIES FOR CONTINUING TO PROVIDE CONSUMER SERVICES WHEN THERE ARE  
1285 INTERRUPTIONS IN THE SUPPLY OF ESSENTIALS, INCLUDING BUT NOT LIMITED TO,  
1286 WATER, PHARMACEUTICALS, AND PERSONAL PROTECTIVE EQUIPMENT (PPE);
- 1287 (6) EDUCATION FOR CONSUMERS, CAREGIVERS, AND FAMILIES ON HOW TO HANDLE CARE  
1288 AND TREATMENT, SAFETY, AND/OR WELL-BEING DURING AND FOLLOWING INSTANCES OF  
1289 NATURAL AND OTHER DISASTERS, INCLUDING STRATEGIES AND RESOURCES FOR  
1290 ENSURING ACCESS TO LIFE SUSTAINING SUPPLIES, APPROPRIATE TO THE NEEDS OF THE  
1291 CONSUMER;
- 1292 (7) STRATEGIES TO PROTECT AND TRANSFER CONSUMER RECORDS, IF NECESSARY; AND
- 1293 (8) STRATEGIES FOR CONTINUING CONSUMER CARE IN THE EVENT THE HCA IS UNABLE TO  
1294 ACCESS CONSUMER RECORDS.
- 1295 (A) ~~The home care agency (HCA) shall have a written emergency preparedness plan that is~~  
1296 ~~designed to manage consumers' care and services in response to the consequences of~~  
1297 ~~natural disasters or other emergencies that disrupt the agency's ability to provide care~~  
1298 ~~and services or threatens the lives or safety of its consumers.~~
- 1299 (B) ~~At a minimum, an agency's written emergency preparedness plan shall include the~~  
1300 ~~following:~~

Commented [BM93]: Existing requirement, updated to reflect risk assessment

Commented [BM94]: Existing requirement

Commented [BM95]: (2) and (6) are existing requirements



- 1301 (1) ~~Provisions for the management of all staff who are designated to be involved in~~  
 1302 ~~emergency measures, including the assignment of responsibilities and functions.~~  
 1303 ~~All staff shall be informed of their duties and be responsible for implementing the~~  
 1304 ~~emergency preparedness plan.~~
- 1305 (2) ~~Education for consumers, caregivers, and families on how to handle care and~~  
 1306 ~~treatment, safety, and/or well-being during and following instances of natural~~  
 1307 ~~(tornado, flood, blizzard, fire, etc.) and other disasters, or other similar situations,~~  
 1308 ~~appropriate to the needs of the consumer.~~
- 1309 (3) ~~Adequate staff education on emergency preparedness so that staff safety is~~  
 1310 ~~assured.~~
- 1311 (C) ~~The agency shall review its emergency preparedness plan after any incident response~~  
 1312 ~~and on an annual basis, and incorporate into policy any substantive changes.~~
- 1313 **6-435.11** Coordination with **e**External **h**Home **e**Care **a**Agencies
- 1314 (A) Each HCA shall be responsible for the coordination of consumer services with known  
 1315 external HCAs providing care and services to the same consumer.
- 1316 (1) No HCA shall refuse to share consumer care information unless the consumer  
 1317 has chosen to refuse coordination with external HCAs.
- 1318 (2) The consumer's refusal of such coordination shall be documented in the  
 1319 consumer's record.
- 1320 **6-445.12** Quality **M**management **P**rogram
- 1321 (A) ~~Every HCA shall establish a quality management program appropriate to the size and type of agency~~  
 1322 ~~that evaluates the quality of consumer services, care, and safety, and that complies with the requirements~~  
 1323 ~~set forth in 6 CCR 1011, Chapter 2, Part 4.1.~~
- 1324 **6-455.13** Infection **P**REVENTION **A**ND **C**ontrol
- 1325 (A) The HCA shall provide training for its **PERSONNEL** ~~employees~~ regarding the agency's  
 1326 written infection **P**REVENTION **A**ND control policies and procedures at the time of hire and  
 1327 **AT LEAST** annually.
- 1328 (B) The HCA shall evaluate the adequacy of its infection **P**REVENTION **A**ND control policies and  
 1329 procedures at least annually, make any necessary substantive changes, and document  
 1330 **SUCH CHANGES** in writing **OR ELECTRONICALLY**.
- 1331 **6-46** (C) **PERSONNEL** ~~Employee~~ **h**Health – **e**Communicable **d**Disease **p**Prevention
- 1332 (A1) It shall be the responsibility of the HCA to establish written policies concerning  
 1333 pre-employment physical evaluations and **PERSONNEL** ~~employee~~ health. Those  
 1334 policies shall include, but not be limited, to:
- 1335 (4A) Work restrictions to be placed on direct care **PERSONNEL** staff who are  
 1336 known to be affected with any illness in a communicable stage or to be a  
 1337 carrier of a communicable illness or disease; ~~afflicted with boils,~~  
 1338 ~~jaundice, infected wounds, vomiting, diarrhea or acute respiratory~~  
 1339 ~~infections.~~

Commented [BM96]: Moved this under 5.13 Infection Prevention and Control

- 1340 ~~6.17~~5.14 Missed ~~v~~Visits
- 1341 (A) There shall be a mechanism for informing the consumer about scheduled visits in  
 1342 accordance with HCA agency policy. Documentation shall be maintained and alterations  
 1343 in the schedule shall be provided to the consumer **IN ADVANCE OF ANY CHANGES TO THE**  
 1344 **SCHEDULE, WHERE POSSIBLE. as soon as practical.**
- 1345 (1) The HCA's policy shall address processes for HCA planning for coverage of  
 1346 **PERSONNEL** employee illness, vacation, holidays, and unexpected voluntary or  
 1347 involuntary termination of employment.
- 1348 (2) If the consumer does not respond to let **PERSONNEL** staff in the home for the  
 1349 scheduled visit, the HCA's attempts to ensure the safety of the consumer and the  
 1350 outcome of each attempt shall be documented.
- 1351 (3) If there is a missed visit, services shall be provided as agreed upon by the  
 1352 consumer and the HCA.
- 1353 (4) If the HCA admits **CONSUMERS** with needs that require care or services to be  
 1354 delivered at specific times or parts of day, the HCA shall ensure qualified  
 1355 **PERSONNEL** staff in sufficient quantity are employed by the agency, or have other  
 1356 effective back-up plans to ensure the needs of the consumer **is**ARE met.
- 1357 (5) The back-up plan for scheduled visits shall not include calling for an ambulance  
 1358 or other emergency services unless the presence of the scheduled **PERSONNEL**  
 1359 staff in the home would still have warranted the summons of emergency  
 1360 services.
- 1361 ~~6.18~~ Contracts
- 1362 (A) ~~If personnel under hourly or per-visit contracts are used by the HCA, there shall be a~~  
 1363 ~~written employment contract between those personnel and the agency that specifies the~~  
 1364 ~~following:~~
- 1365 (1) ~~Home care consumers are accepted for care only by the primary HCA,~~
- 1366 (2) ~~The specific services to be furnished,~~
- 1367 (3) ~~The necessity to conform to all applicable agency policies, including personnel~~  
 1368 ~~qualifications,~~
- 1369 (4) ~~The responsibility for participating in developing plans of care or service,~~
- 1370 (5) ~~The manner in which services will be controlled, coordinated, and evaluated by~~  
 1371 ~~the primary HCA,~~
- 1372 (6) ~~The procedures for submitting clinical/service notes, scheduling of visits, periodic~~  
 1373 ~~consumer evaluation, and~~
- 1374 (7) ~~The procedures for payment for services furnished under the contract.~~
- 1375 ~~6.19~~5.15 Information ~~m~~Management ~~s~~System
- 1376 (A) Each HCA shall implement a policy and procedure for an effective information  
 1377 management system **THAT IS** either paper-based or electronic. Processes shall include

**Commented [BM97]:** Struck here and moved to Personnel above.

- 1378 effective management for capturing, reporting, processing, storing, and retrieving  
 1379 clinical/service data and information in accordance with standards of practice. The  
 1380 system shall provide for:
- 1381 (1) Privacy and confidentiality of protected health information from unauthorized use  
 1382 or manipulation; **AND**
- 1383 (2) Organization of the consumer record utilizing standardized formats for  
 1384 documenting all care, treatment, and services provided to consumers according  
 1385 to agency HCA policy. Standardization shall not include pre-filled documentation  
 1386 of future care and services.
- 1387 (B) In addition, for electronic consumer healthcare records, policies and procedures shall be  
 1388 ~~devised~~ **DEVELOPED** and implemented to ensure:
- 1389 (1) A method for validating data entry access and changes to previously entered  
 1390 data, and
- 1391 (2) Recovery of records, including contingency plans for operational interruptions  
 1392 (hardware, software, or other systems failures), emergency service plan, a back-  
 1393 up system for retrieval of data from storage, and information presently in the  
 1394 operating system.
- 1395 **6.20(C) CONTENT OF Consumer Records content**
- 1396 (A1) All HCAs shall have a complete and accurate record for each consumer  
 1397 assessed, cared for, treated, or served. ~~The record shall contain sufficient~~  
 1398 ~~information to identify the consumer; support the diagnosis or condition; justify~~  
 1399 ~~the care, treatment, and/or services delivered; and promote continuity of care~~  
 1400 ~~internally and externally, where applicable.~~
- 1401 (2) **THE RECORD SHALL CONTAIN SUFFICIENT INFORMATION TO IDENTIFY THE CONSUMER;**  
 1402 **SUPPORT THE DIAGNOSIS OR CONDITION; JUSTIFY THE CARE, TREATMENT, AND/OR**  
 1403 **SERVICES DELIVERED; AND PROMOTE CONTINUITY OF CARE INTERNALLY AND**  
 1404 **EXTERNALLY, WHERE APPLICABLE.**
- 1405 (13) ~~Such~~ **Records** shall contain consumer-specific information as appropriate to the  
 1406 care, treatment, or services provided, including but not limited to:
- 1407 (a) Records of communications with the consumer or authorized  
 1408 representative regarding care, treatment, and services, including  
 1409 documentation of phone calls and e-mails, and
- 1410 (b) Referrals to, and names of, known home care agencies, individuals, and  
 1411 organizations involved in the consumer's care.
- 1412 (4) **THE RECORD SHALL INDICATE IF THE SERVICE OR VISIT WAS PROVIDED IN PERSON OR**  
 1413 **VIA TELEHEALTH.**
- 1414 (25) Clinical records for HCAs providing skilled home health services shall contain,  
 1415 where applicable:
- 1416 (a) Hospital and emergency room records for known episodes or  
 1417 documentation of efforts to obtain the information;;

**Commented [BM98]:** Not new language. Broken out from bullet above.

- 1418 (b) Medical equipment provided by the HCA or related to the care,
- 1419 treatment, and services provided, including assessment of consumer and
- 1420 family comprehension of appropriate use and maintenance;
- 1421 (c) Consumer and family education, and training on services or treatments,
- 1422 and the use of equipment at the time of delivery to the home;
- 1423 (d) Safety measures taken to protect the consumer from harm, including fall
- 1424 risk assessments, and documentation why any identified or planned
- 1425 safety measures were not implemented or continued; and
- 1426 (e) Diagnostic and therapeutic procedures, treatments, tests, and their
- 1427 results ~~where known to have occurred.~~

1428 (D) CONSUMER RECORDS MUST BE RETAINED FOR FIVE (5) YEARS AFTER THE DISCHARGE OF THE  
 1429 CONSUMER, UNLESS STATE LAW STIPULATES A LONGER PERIOD OF TIME.

**Commented [BM99]:** Moved from skilled care since it applies to both skilled and non-medical HCAs.

1430 (1) THE HCA'S POLICIES SHALL PROVIDE FOR RETENTION OF CONSUMER RECORDS EVEN IF  
 1431 IT DISCONTINUES OPERATION.

1432 (A) WHEN AN HCA PERMANENTLY DISCONTINUES OPERATION, IT SHALL COMPLY  
 1433 WITH THE REQUIREMENTS OF 6 CCR 1011-1, CHAPTER 2, PART 2.14.4.

1434 (B) WHEN AN HCA DISCONTINUES OPERATION, IT SHALL INFORM THE STATE  
 1435 AGENCY OF WHERE CLINICAL RECORDS WILL BE MAINTAINED.

1436 (2) A CHANGE OF OWNERSHIP DOES NOT CONSTITUTE DISCONTINUING OPERATION.

1437 (3) WHEN AN HCA HAS A CHANGE OF OWNERSHIP, THE EXISTING OWNER SHALL PROVIDE  
 1438 THE NEW OWNER WITH ALL CONSUMER RECORDS.

**Commented [BM100]:** Add guidance language around this process

1439 **PART Section 76. SKILLED CARE**

1440 **76.1 Governing Body**

1441 (A) ~~AN home care agency~~ HCA shall have an organized governing body.

1442 (1) The GOVERNING body shall consist of members who singularly or collectively have  
 1443 business and healthcare experience sufficient to oversee the services provided  
 1444 by the ~~home care agency~~ HCA.

1445 (B) ~~The governing body shall have a process for review of agency operations at least~~  
 1446 ~~quarterly and meet at least annually.~~

**Commented [BM101]:** Recommend striking here and capture in (B)(4)(a) and (B)(4)(c) below.

1447 (CB) The governing body shall assume responsibility for:

1448 (1) Compliance with all federal, STATE, AND LOCAL LAWS AND regulations, ~~state rules,~~  
 1449 ~~and local laws.~~

1450 (2) Quality consumer care, INCLUDING ANNUAL REVIEW AND APPROVAL OF THE HCA'S  
 1451 QUALITY MANAGEMENT PLAN.

**Commented [BM102]:** Added language to specify that the QMP is different than the Agency Evaluation at 6.4.

1452 (3) DEVELOPMENT OF Policies and procedures which describe and direct functions  
 1453 or services of the ~~home care agency~~ HCA and protect consumer rights.

- 1454 (4) ~~DEVELOPMENT OF b~~Bylaws OR GOVERNING DOCUMENT that shall include, at a  
1455 minimum:
- 1456 (a) A description of functions and duties of the governing body, officers, and  
1457 committees, INCLUDING BUT NOT LIMITED TO, A PROCESS FOR REVIEW OF  
1458 AGENCY OPERATIONS AT LEAST ANNUALLY;
- 1459 (b) A statement of the authority and responsibility delegated to the  
1460 administrator; AND
- 1461 (c) A REQUIREMENT TO MEET ~~Meet as stated in bylaws,~~ at least annually;
- 1462 (d) ~~Appoint in writing a qualified administrator who is responsible for the~~  
1463 ~~agency's overall functions.~~
- 1464 (5) DEVELOPMENT OF A POLICY AND PROCEDURE FOR DETERMINING THE QUALIFICATIONS  
1465 OF THE ADMINISTRATOR. APPOINTMENT OF A QUALIFIED ADMINISTRATOR, RESPONSIBLE  
1466 FOR THE HCA'S OVERALL FUNCTIONS, SHALL BE DOCUMENTED IN WRITING.
- 1467 (56) Review of the written agency evaluation report and other communications from  
1468 the administrator or group of professional personnel with evidence of written  
1469 response;
- 1470 (67) EstablishING and ensureING the maintenance of a system of financial  
1471 management and accountability; and
- 1472 (78) Organization, services furnished, administrative control, and lines of authority for  
1473 the delegation of responsibility down to the consumer care level, that are clearly  
1474 set forth in writing and are readily identifiable.
- 1475 (9) DOCUMENTATION OF GOVERNING BODY MEETINGS AND ACTIVITIES.

Commented [BM103]: Recommend striking here and putting in (5) below.

1476 76.2 Administration

- 1477 (A) The HCA, under the direction of the governing body, shall be responsible for preparation  
1478 of an overall plan and a budget that includes an annual operating budget and capital  
1479 expenditure plan, as applicable.
- 1480 (1) ~~The overall plan and budget shall be prepared by a committee consisting of~~  
1481 ~~representatives of the governing body, the administrative staff, and the medical~~  
1482 ~~staff (if any) of the HCA. The overall plan and budget shall be reviewed and~~  
1483 ~~updated at least annually by the committee referred to herein under the direction~~  
1484 ~~of the HCA governing body.~~
- 1485 (1) THE GOVERNING BODY SHALL REVIEW AND UPDATE THE OVERALL PLAN AND BUDGET AT  
1486 LEAST ANNUALLY.
- 1487 (B) Any HCA that performs procedures in the consumer's residence that are considered  
1488 waived clinical laboratory procedures under the Clinical Laboratory Improvement Act of  
1489 1988, shall possess a certificate of waiver from the Centers for Medicare and Medicaid  
1490 Services or its designated agency.
- 1491 (C) Any HCA that provides equipment to consumers shall ~~have written~~DEVELOP AND  
1492 IMPLEMENT policies and procedures for the management of medical equipment provided

Commented [BM104]: Removed committee requirement

Commented [BM105]: Modified language. Broken out from (1) above.

1493 for use in consumer homes, including selection, acquisition, delivery, and maintenance of  
1494 the equipment.

1495 (1) The HCA shall make full disclosure of the policies and procedures to all  
1496 consumers before the equipment is provided. ~~The policies and procedures shall~~  
1497 ~~include the following:~~

1498 (2) ~~THE POLICIES AND PROCEDURES SHALL INCLUDE THE FOLLOWING:~~

- 1499 (a) A process to provide an appropriate back-up system, including  
1500 emergency services ~~TWENTY-FOUR (24)~~ hours per day where the  
1501 malfunction may threaten the consumer's life;
- 1502 (b) Monitoring and acting upon equipment hazard notices and recalls;
- 1503 (c) Checking equipment upon delivery to the consumer to ensure it is  
1504 sanitary, undamaged, and operating properly;
- 1505 (d) Basic safety and operational checks on infusion pumps that include a  
1506 volumetric test of accuracy of infusion rate between each consumer use;  
1507 and
- 1508 (e) Performance of routine and preventative maintenance conducted at  
1509 defined intervals per manufacturer's guidelines.

1510 (DE) Availability ~~AFTER BUSINESS HOURS~~

1511 (1) The ~~agency~~HCA shall have a registered nurse or other appropriate health  
1512 professional available after business hours.

1513 (2) The ~~agency~~HCA shall have a policy describing, at a minimum, the following:

- 1514 (A) How consumers will contact the agency after hours; and
- 1515 (B) How the agency will ensure the health professional on call has access to  
1516 all current consumer information.

1517 7.3 ~~Professional advisory committee~~

1518 (A) ~~Each HCA shall have a group of professional personnel that includes at least one~~  
1519 ~~physician and one registered nurse, an appropriate representation from the professional~~  
1520 ~~disciplines the HCA employs or contracts with to provide services.~~

1521 (1) ~~The group of professional personnel shall establish and annually review the~~  
1522 ~~agency's policies governing the services offered, admission and discharge~~  
1523 ~~policies, medical supervision and plans of care, emergency care, clinical records,~~  
1524 ~~personnel qualifications, and program evaluation.~~

1525 (2) ~~At least one member of the group shall not be an owner, an employee or a~~  
1526 ~~contractor for the provision of consumer care services for the HCA.~~

1527 (B) ~~The agency shall implement an on-going mechanism for consumer involvement to~~  
1528 ~~provide input and comment regarding services provided by the agency in accordance~~  
1529 ~~with agency policy. Consumer input and commentary shall be provided to the group of~~

**Commented [BM106]:** Not new language. Broken out from above.

**Commented [BM107]:** No longer a CMS requirement. Recommend striking this section. Moved (B) to Agency Evaluation below.

- 1530 professional personnel at least annually to identify trends or issues requiring  
1531 consideration of the group.
- 1532 (C) ~~The group of professional personnel shall meet annually and as frequently as necessary~~  
1533 ~~to advise the agency on professional issues, to participate in the evaluation of the~~  
1534 ~~agency's program, and to assist the agency in maintaining liaison with other health care~~  
1535 ~~providers in the community and in the agency's community information program.~~
- 1536 (1) ~~The HCA shall have a policy and procedure to establish criteria for calling a~~  
1537 ~~meeting of the group of professional personnel more frequently than annually.~~  
1538 ~~The policy shall be developed to ensure professional advice is requested and~~  
1539 ~~received at an appropriate frequency to protect and preserve the health, safety~~  
1540 ~~and welfare of the consumers it serves.~~
- 1541 (2) ~~Each meeting shall be documented with the date and the signatures of~~  
1542 ~~attendees. Meeting minutes shall be forwarded to the governing body to review~~  
1543 ~~and make recommendations.~~
- 1544 **7.46.3 Agency Evaluation**
- 1545 (A) ~~The agency~~HCA's governing body or its designee shall conduct a comprehensive  
1546 evaluation of the ~~agency~~HCA's total operation at least annually.
- 1547 (B) The evaluation shall assure the appropriateness and quality of the ~~agency's~~HCA's  
1548 services with findings used to verify policy implementation, to identify problems, and to  
1549 establish problem resolution and policy revision as necessary.
- 1550 (C) The evaluation shall consist of an overall policy and administration review, including the  
1551 scope of services offered, arrangements for services with other agencies or individuals,  
1552 admission and discharge policies, supervision and plan of care, emergency care, service  
1553 records, and personnel qualifications.
- 1554 (A) **THE HCA SHALL IMPLEMENT AN ON-GOING MECHANISM FOR CONSUMER INVOLVEMENT**  
1555 **TO PROVIDE INPUT AND COMMENT REGARDING SERVICES PROVIDED BY THE HCA IN**  
1556 **ACCORDANCE WITH HCA POLICY. CONSUMER INPUT AND COMMENTARY SHALL BE**  
1557 **PROVIDED TO THE GOVERNING BODY AT LEAST ANNUALLY TO IDENTIFY TRENDS OR**  
1558 **ISSUES REQUIRING CONSIDERATION.**
- 1559 (D) In evaluating each aspect of its total program, the HCA shall consider four (4) main  
1560 criteria:
- 1561 (1) Appropriateness - assurance that the area being evaluated addresses existing  
1562 and/or potential problems.
- 1563 (2) Adequacy - a determination as to whether the HCA has the capacity to overcome  
1564 or minimize existing or potential problems.
- 1565 (3) Effectiveness - the services offered accomplish the objectives of the HCA and  
1566 anticipated consumer outcomes.
- 1567 (4) Efficiency - whether there is a minimal expenditure of resources by the HCA to  
1568 achieve desired goals and anticipated consumer outcomes.

**Commented [BM108]:** Moved from Professional Advisory Committee.

- 1569 (E) Documentation of the annual evaluation shall include the names and titles of the persons  
1570 carrying out the evaluation, the criteria and methods used to accomplish it, and any  
1571 action taken by the agencyHCA as a result of its findings.
- 1572 (F) Appropriate professionals representing the scope of the agencyHCA's program shall  
1573 evaluate the agencyHCA's clientCONSUMER records at least quarterly.
- 1574 (1) The evaluation shall include a review of sample active and closed  
1575 clientCONSUMER records to ensure that agencyHCA policies are followed in  
1576 providing services, both direct and under arrangement, and to assure that the  
1577 quality of service is satisfactory and appropriate. The review shall consist of a  
1578 representative sample of all home care services provided by the agencyHCA.
- 1579 **7.56.4 Administrator**
- 1580 (A) The administrator shall assume authority for the operation of the HCAagency's skilled  
1581 health services, including but not limited to:
- 1582 (1) Organizing and directing the HCAagency's ongoing functions;
- 1583 (2) Employing qualified personnel and ensureING appropriate ongoing education and  
1584 supervision of ALL personnel. and volunteers;
- 1585 (3) Ensuring the accuracy of public information materials and activities;
- 1586 (4) Implementing a budgeting and accounting system; and
- 1587 (5) Designating **IN WRITING** a qualified alternate administrator to act in the  
1588 administrator's absence.
- 1589 (B) The administrator shall:
- 1590 (1) Be at least **TWENTY-ONE (21)** years of age;
- 1591 (2) Be a licensed physician, registered nurse, or other licensed healthcare  
1592 professional, or have experience and education in health service administration;
- 1593 (3) Be qualified by education, knowledge, and experience to oversee the services  
1594 provided; and
- 1595 (4) Have at least two **(2)** years healthcare or health service administration  
1596 experience with at least one **(1)** year of supervisory experience in home care or a  
1597 closely related health program.
- 1598 (C) The administrator shall have the overall responsibility to ensure the following:
- 1599 (1) The HCAagency's skilled health services are in compliance with all applicable  
1600 federal, state, and local laws;;
- 1601 (2) The completion, maintenance, and submission of such reports and records as  
1602 required by the dDepartment;;
- 1603 (3) Ongoing liaison with the governing body, ~~staff members~~PERSONNEL, and the  
1604 community;;

**Commented [BM109]:** Propose to strike (C)(9) below and add in writing here.

**Commented [BM110]:** Address any additional clarification of who qualifies in guidance



- 1605 (4) ~~MAINTENANCE OF AA~~ current organizational chart to show lines of authority down  
1606 to the consumer level;
- 1607 (5) The management of the business affairs and the overall operation of the  
1608 HCA agency;
- 1609 (6) Maintenance of appropriate personnel records, financial, and administrative  
1610 records and all policies and procedures of the agency;
- 1611 (7) Employment of qualified personnel in accordance with written job descriptions;
- 1612 (8) Orientation of new PERSONNEL staff, AND regularly scheduled in-service education  
1613 programs and opportunities for continuing education ARE PROVIDED for the  
1614 PERSONNEL staff;
- 1615 ~~(9) Designate in writing the qualified staff member to act in the absence of the~~  
1616 ~~administrator, and~~
- 1617 (409) Availability of the administrator or designee at all hours PERSONNEL employees  
1618 are providing services, at minimum, any eight (8) hour period between 7 a.m. and  
1619 7 p.m. Monday through Friday;
- 1620 ~~(10)~~ Marketing, advertising, and promotional information accurately represents the  
1621 HCA and addresses the care, treatment, and services that the HCA can provide  
1622 directly or through contractual arrangement; AND
- 1623 (11) MAINTENANCE OF A COORDINATED HCA-WIDE PROGRAM FOR THE SURVEILLANCE,  
1624 IDENTIFICATION, PREVENTION, CONTROL, AND INVESTIGATION OF INFECTIOUS AND  
1625 COMMUNICABLE DISEASES THAT IS AN INTEGRAL PART OF THE HCA'S QUALITY  
1626 MANAGEMENT PROGRAM;
- 1627 7-6 (D) Curriculum for administrator training
- 1628 (A1) A first-time administrator or alternate administrator shall complete a total of  
1629 TWENTY-FOUR (24) CLOCK hours of training in the administration of an HCA agency  
1630 before the end of the first TWELVE (12) months after designation to the position.
- 1631 (B2) A first-time administrator or alternate administrator shall complete eight (8) clock  
1632 hours of educational training in the administration of an HCA agency within the  
1633 first month of employment. The eight (8) clock hours shall include, at a minimum,  
1634 the following topics:
- 1635 (4A) Home care overview,
- 1636 (2B) Information on the licensing standards for the HCA agency; and
- 1637 (3C) Information on state and local laws applicable to the HCA agency.
- 1638 (C3) A first-time administrator or alternate administrator shall complete an additional  
1639 SIXTEEN (16) clock hours of educational training before the end of the first TWELVE  
1640 (12) months after designation to the position. Any of the SIXTEEN (16) CLOCK  
1641 hours may be completed prior to designation if completed during the TWELVE (12)  
1642 months immediately preceding the date of designation to the position. The  
1643 additional SIXTEEN (16) clock hours shall include the following subjects and may  
1644 include other topics related to the duties of an administrator:

**Commented [BM111]:** Redundant to (A)(5) above. Suggest strike.

**Commented [BM112]:** SOM §484.70(b)

**Commented [BM113]:** Moved this subsection under 6.4 Administrator

- 1645 (4A) Consumer rights, governing body and administrator responsibilities,  
1646 ~~professional advisory committee~~, quality management plans, occurrence  
1647 reporting, and complaint investigation and resolution process;
- 1648 (2B) Personnel qualifications, experience, competency, and evaluations;
- 1649 (3C) Financial management;
- 1650 (4D) Ethics in healthcare;
- 1651 (5E) Needs of the fragile, ill, and physically and cognitively disabled in the  
1652 community setting with special training and staffing considerations;
- 1653 (6F) Behavior management techniques;
- 1654 (7G) Staffing methodologies and oversight of scheduling;
- 1655 (8H) Staff training and supervision; and
- 1656 (9) Limitations of personal care versus health care services.
- 1657 (D4) The **TWENTY-FOUR (24) CLOCK** hour education requirement shall be met through  
1658 structured, formalized classes, correspondence courses, competency-based  
1659 computer courses, training videos, distance learning programs, or other training  
1660 courses. Subject matter that deals with the internal affairs of an organization  
1661 does not qualify for credit. The training shall be provided or produced by an  
1662 academic institution, a recognized state or national organization or association,  
1663 an independent contractor, or an **HCA**agency.
- 1664 (4A) If an **HCA**agency or independent contractor provides or produces  
1665 training, the training shall first be approved by the ~~d~~Department or  
1666 recognized by a national organization or association. The **HCA**agency  
1667 shall maintain documentation of this approval for review by inspectors.
- 1668 (E5) Documentation of administrator or alternate administrator training must be on file  
1669 at the **HCA**agency and contain the name of the class or workshop, the course  
1670 content or curriculum, the hours and dates of the training, and the name and  
1671 contact information of the entity and trainer who provided the training.
- 1672 (F6) After completion of the **TWENTY-FOUR (24) CLOCK** hours of educational training  
1673 within the first **TWELVE (12)** months after designation as a first-time administrator  
1674 or alternate administrator, each must then complete the continuing education  
1675 requirements in each subsequent **TWELVE (12)**-month period after designation.
- 1676 (G7) An administrator shall complete **TWELVE (12)** clock hours of continuing education  
1677 within each **TWELVE (12)**-month period beginning with the date of designation.  
1678 The education shall include at least two (2) of the following topics and may  
1679 include other topics related to the duties of the administrator.
- 1680 (4A) Any of the topics listed under the initial training requirements,
- 1681 (2B) Development and implementation of agency policies,
- 1682 (3C) Healthcare management,

- 1683 (4D) Ethics,
- 1684 (5E) Quality improvement,
- 1685 (6F) Risk assessment and management,
- 1686 (7G) Financial management,
- 1687 (8H) Skills for working with consumers, families, and other professional  
1688 service providers, INCLUDING CONSIDERATIONS FOR SPECIAL POPULATIONS  
1689 SERVED BY THE HCA,
- 1690 (9I) Community resources, AND
- 1691 (4J) Marketing.
- 1692 (H8) For an administrator or alternate administrator who was an administrator prior to  
1693 June 1, 2009, but had HAS not served as an administrator for 180 days or more  
1694 immediately preceding the date of designation, at least eight (8) of the TWELVE  
1695 (12) clock hours within the first TWELVE (12) months after designation shall  
1696 include the topics listed for first time administrators. The remaining four (4) clock  
1697 hours shall include topics related to the duties of the administrator and include at  
1698 least two (2) of the topics listed under continuing education. If a previous  
1699 administrator has not been employed as such for two (2) years or more, the  
1700 requirements for a first time administrator apply.
- 1701 7-76.5 Nursing or Hhealthcare Ssupervisor
- 1702 (A) The skilled nursing services furnished shall be under the supervision and direction of a  
1703 physician or registered nurse who has at least two (2) years of nursing experience  
1704 including one (1) year in home care or a closely related service. Other healthcare  
1705 services shall be under the supervision and direction of a physician, registered nurse, or  
1706 other licensed healthcare professional who has at least two (2) years healthcare  
1707 experience in the field of supervision including one year experience in home care or a  
1708 closely related service.
- 1709 (1) OTHER HEALTHCARE SERVICES SHALL BE UNDER THE SUPERVISION AND DIRECTION OF  
1710 A PHYSICIAN, REGISTERED NURSE, OR OTHER LICENSED HEALTHCARE PROFESSIONAL  
1711 WHO HAS AT LEAST TWO (2) YEARS OF HEALTHCARE EXPERIENCE IN THE FIELD OF  
1712 SUPERVISION INCLUDING ONE (1) YEAR OF EXPERIENCE IN HOME CARE OR A CLOSELY  
1713 RELATED SERVICE.
- 1714 (B) This person THE NURSING OR HEALTHCARE SUPERVISOR, or similarly qualified alternate, shall  
1715 be available at all times during operating hours and participate in all activities relevant to  
1716 the professional services furnished, including the development of qualifications and the  
1717 assignment of personnel.
- 1718 (C) THE NURSING OR HEALTHCARE SUPERVISOR SHALL ENSURE OVERSIGHT OF ALL CONSUMER  
1719 CARE SERVICES AND PERSONNEL, INCLUDING BUT NOT LIMITED TO:
- 1720 (1) MAKING CONSUMER AND PERSONNEL ASSIGNMENTS,
- 1721 (2) COORDINATING CONSUMER CARE,
- 1722 (3) COORDINATING REFERRALS,

Commented [BM114]: Not new language. Broken out from above.

- 1723 (4) ASSURING THAT CONSUMER NEEDS ARE CONTINUALLY ASSESSED, AND
- 1724 (5) ASSURING THE DEVELOPMENT, IMPLEMENTATION, AND UPDATES OF THE INDIVIDUALIZED
- 1725 PLAN OF CARE.
- 1726 7.86.6 Personnel
- 1727 (A) ~~Each employee and contracted staff~~ ALL PERSONNEL shall possess the education and
- 1728 experience to provide services in the homes of consumers in accordance with
- 1729 HCA agency policy, state practice acts, and professional standards of practice as set forth
- 1730 in this chapter.
- 1731 (B) Licensed, registered, or certified healthcare providers shall, at a minimum, meet the
- 1732 following requirements:
- 1733 (1) ~~Be qualified as a physician, pharmacist, physician assistant, nurse practitioner,~~
- 1734 ~~clinical social worker, social worker, physical therapist, physical therapist~~
- 1735 ~~assistant, occupational therapist, occupational therapist assistant, respiratory~~
- 1736 ~~therapist, registered nurse, licensed practical nurse, massage therapist, certified~~
- 1737 ~~nurse aide or other provider licensed, registered or certified by the Colorado~~
- 1738 ~~Department of Regulatory Agencies (DORA).~~
- 1739 (2) ~~Meet the requirements for license, certification, or registration set forth by DORA.~~
- 1740 (B) LICENSED, CERTIFIED, AND/OR REGISTERED PERSONNEL SHALL HAVE AN ACTIVE LICENSE,
- 1741 CERTIFICATION, OR REGISTRATION, ISSUED BY DORA AND SHALL PROVIDE SERVICES WITHIN
- 1742 THEIR SCOPE OF PRACTICE.
- 1743 (C) PERSONNEL ~~Staff not~~ LICENSED, CERTIFIED, OR REGISTERED BY ~~regulated under~~ DORA shall,
- 1744 at a minimum, meet the following requirements:-
- 1745 (1) ~~A speech language pathologist shall:~~
- 1746 (a) ~~Possess a current certificate of clinical competence in speech pathology~~
- 1747 ~~or audiology granted by the American Speech-Language-Hearing~~
- 1748 ~~Association, or~~
- 1749 (b) ~~Meet the educational requirements for certification and be in the process~~
- 1750 ~~of accumulating the supervised experience required for certification.~~
- 1751 (2) ~~RESERVED~~
- 1752 (3) ~~RESERVED~~
- 1753 (4) ~~An X-ray technician shall:~~
- 1754 (a) ~~Have successfully completed a program of formal training in X ray~~
- 1755 ~~technology of not less than 24 months in a school approved by the~~
- 1756 ~~Committee on Allied Health Education and Accreditation of the American~~
- 1757 ~~Medical Association or by the American Osteopathic Association; or~~
- 1758 (b) ~~Have earned a bachelor's or associate degree in radiological technology~~
- 1759 ~~from an accredited college or university.~~
- 1760 (5) A phlebotomist shall:

**Commented [BM115]:** SOM §484.105(c) language added to clarify the oversight responsibilities of all consumer care services and personnel.

**Commented [SA116]:** Recommend striking and no longer listing out each profession.

**Commented [BM117]:** 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 [BM118]:** Recommend striking after reviewing with stakeholders. Likely HCAs are using certified portable xray providers.

- 1761 (a) Have successfully completed an approved phlebotomy training course or  
1762 equivalent experience through previous employment; and
- 1763 (b) Have two (2) years of verifiable phlebotomy experience.
- 1764 (D) Ongoing training shall be provided to all direct care staff PERSONNEL. Training  
1765 requirements shall be consistent with the program, services, and equipment THE HCA it  
1766 provides, and are appropriate to the needs of the populations served.
- 1767 (1) Training shall consist of at least TWELVE (12) topics applicable to the  
1768 HCA agency's care and services every TWELVE (12) months after the starting date  
1769 of employment or calendar year as designated by HCA agency policy. The  
1770 training requirement shall be prorated in accordance with the number of months  
1771 the employee INDIVIDUAL was actively working for the agency. Training shall  
1772 include, but is not limited to, the following items:
- 1773 (2) TRAINING SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING ITEMS:
- 1774 (a) Promoting consumer dignity, independence, self-determination, privacy,  
1775 choice, and rights; including abuse and neglect prevention and reporting  
1776 requirements;
- 1777 (b) Behavior management techniques;
- 1778 (c) Disaster and emergency procedures; and
- 1779 (d) Infection PREVENTION AND control including skis.
- 1780 (23) All training shall be documented BY THE HCA. Classroom type trainings shall be  
1781 documented with the date of the training; starting and ending times; instructors  
1782 and their qualifications; short description of content; and staff member's  
1783 signature. On-line or self-study trainings shall be documented with information as  
1784 to the content of the training, and the entity that offered or produced the training.
- 1785 (A) TRAININGS SHALL BE DOCUMENTED WITH THE DATE OF TRAINING; LENGTH OF  
1786 TRAINING; ENTITY OR INSTRUCTOR(S) THAT OFFERED OR PRODUCED THE  
1787 TRAINING; A SHORT DESCRIPTION OF THE CONTENT; AND STAFF MEMBER'S  
1788 WRITTEN OR ELECTRONIC SIGNATURE OR PROOF OF ATTENDANCE.
- 1789 7.96.7 Initial and Comprehensive Assessments
- 1790 (A) Initial assessment visit
- 1791 (1) A registered nurse shall conduct an initial assessment visit to determine the  
1792 immediate care and support needs of the consumer. The initial assessment visit  
1793 shall be held either within FORTY-EIGHT (48) hours of referral, or within FORTY-  
1794 EIGHT (48) hours of the consumer's return home, or on the ordered start-of-care  
1795 date.
- 1796 (2) When an alternate professional healthcare service is the only service ordered,  
1797 the initial assessment visit may be made by the appropriate healthcare  
1798 professional.
- 1799 (3) THE INITIAL ASSESSMENT VISIT AND COMPREHENSIVE ASSESSMENT MAY BE CONDUCTED  
1800 DURING THE SAME VISIT.

Commented [BM119]: Not new language. Broken out from above.

Commented [BM120]: Not new requirement, language broken out from above and boiled down into one bullet.

- 1801 (B) Comprehensive assessment of consumers
- 1802 (1) The HCA shall ~~accomplish~~ **CONDUCT** an individualized comprehensive  
1803 assessment that accurately reflects each consumer's current health status and  
1804 includes information that may be used to demonstrate the consumer's progress  
1805 toward achievement of the desired outcomes.
- 1806 (2) The comprehensive assessment shall identify the consumer's need for home  
1807 care and meet the consumer's medical, nursing, rehabilitative, social, and  
1808 discharge planning needs.
- 1809 (3) The comprehensive assessment shall be completed in a timely manner,  
1810 consistent with the consumer's immediate needs, but no later than five (5)  
1811 calendar days after the start of care.
- 1812 (4) Except as otherwise indicated in this section, a registered nurse shall complete  
1813 the comprehensive assessment.
- 1814 (5) When healthcare services other than nursing are ordered by the physician **OR**  
1815 **LICENSED INDEPENDENT PRACTITIONER**, the primary professional healthcare worker  
1816 shall complete the comprehensive assessment.
- 1817 (6) When nursing services are provided, the comprehensive assessment shall  
1818 include a review of all medications the consumer is currently using in order to  
1819 identify any potential adverse effects and drug reactions, including ineffective  
1820 drug therapy, significant side effects, significant drug interactions, duplicate drug  
1821 therapy, and noncompliance with drug therapy.
- 1822 (a) The HCA shall report any concerns to the attending physician **OR**  
1823 **LICENSED INDEPENDENT PRACTITIONER**, and the ~~director of nursing~~ **NURSING**  
1824 **OR HEALTHCARE SUPERVISOR**, and these reports shall be acted upon.
- 1825 (7) For consumers receiving intermittent respite and waiver services that are not  
1826 provided within a continuous **SIXTY (60)** day period, a comprehensive assessment  
1827 shall be accomplished before reinitiating services rather than the minimum time  
1828 frames set forth below.
- 1829 (A) The comprehensive assessment shall be updated and revised as  
1830 frequently as the consumer's condition warrants due to a major decline  
1831 or improvement in the consumer's health status. At a minimum, it shall  
1832 be updated and revised:
- 1833 ~~(a)~~(i) Every **SIXTY (60)** days beginning with the start-of-care date; and
- 1834 ~~(b)~~(ii) Within **FORTY-EIGHT (48)** hours of the consumer's return to the  
1835 home from a hospital admission of **TWENTY-FOUR (24)** hours or  
1836 more, for any reason other than diagnostic tests or, for non-  
1837 certified agencies, as ordered by the physician or **LICENSED**  
1838 **INDEPENDENT PRACTITIONER** ~~intermediate care provider~~.
- 1839 (C) Provision of skilled services
- 1840 (1) The HCA shall have written policies regarding nurse delegation. The policy shall  
1841 delineate what tasks or procedures may or may not be delegated, the delegation  
1842 process, documentation, and how the delegatee shall be supervised in

**Commented [SA121]:** 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.

- 1843 accordance with **3 CCR 716-1, NURSING RULES AND REGULATIONS**-state  
 1844 regulation. If the HCA prohibits **NURSE** delegation, there shall be a policy that  
 1845 specifies such prohibition.
- 1846 **7.406.8** Plan of Care
- 1847 (A) **CONSUMER** Care follows a written plan of care established and periodically reviewed by  
 1848 a physician or **LICENSED INDEPENDENT PRACTITIONER**. ~~doctor of medicine, osteopathy, or~~  
 1849 ~~podiatric medicine. Care plans established by a nurse practitioner, physician assistant, or~~  
 1850 ~~other therapists within their scope of practice may be accepted by an HCA that is not~~  
 1851 ~~federally certified as a home care agency.~~ For PACE participants, the interdisciplinary  
 1852 team shall establish, follow, and periodically review the plan of care.
- 1853 (1) The plan of care shall be developed in consultation with the **HCA** agency staff  
 1854 **PERSONNEL** and covers all pertinent diagnoses, including mental status, types of  
 1855 services, identification of any services furnished by other providers, and how  
 1856 those services are coordinated, equipment required, frequency and duration of  
 1857 visits, prognosis, rehabilitation potential, functional limitations, activities  
 1858 permitted, instructions for timely discharge or referral, and any other appropriate  
 1859 items.
- 1860 (a) The plan of care shall identify the consumer's continuing need for home  
 1861 care and meet the consumer's medical, nursing, rehabilitative, social,  
 1862 and discharge planning needs.
- 1863 (b) The plan of care reflects the participation of the consumer to the extent  
 1864 possible. The HCA communicates the plan of care to the  
 1865 consumer/caregiver **OR AUTHORIZED REPRESENTATIVE** in a comprehensible  
 1866 way.
- 1867 (B) If a physician or **LICENSED INDEPENDENT PRACTITIONER** intermediate care provider refers a  
 1868 consumer under a plan of care that cannot be completed until after an evaluation visit,  
 1869 the attending physician or **LICENSED INDEPENDENT PRACTITIONER** attending intermediate  
 1870 care provider shall be consulted to approve additions or modifications to the original plan.  
 1871 ~~Orders for therapy services shall include the specific procedures and modalities to be~~  
 1872 ~~used and the amount, frequency, and duration. The therapist, other agency personnel~~  
 1873 ~~and external home care providers (where applicable) shall participate in developing the~~  
 1874 ~~plan of care.~~
- 1875 (C) **ORDERS FOR THERAPY SERVICES SHALL INCLUDE THE SPECIFIC PROCEDURES AND MODALITIES**  
 1876 **TO BE USED AND THE AMOUNT, FREQUENCY, AND DURATION. THE THERAPIST, OTHER HCA**  
 1877 **PERSONNEL, AND EXTERNAL HOME CARE PROVIDERS, WHERE APPLICABLE, SHALL PARTICIPATE**  
 1878 **IN DEVELOPING THE PLAN OF CARE.**
- 1879 (D) The total plan of care shall be reviewed **IN ITS ENTIRETY** by the attending physician or  
 1880 **LICENSED INDEPENDENT PRACTITIONER** ~~attending intermediate care provider~~ and HCA  
 1881 personnel as often as the severity of the consumer's condition requires, but at least once  
 1882 every **SIXTY (60)** days or more frequently when there is a significant change in condition.
- 1883 (1) For consumers receiving intermittent respite and waiver services that are not  
 1884 provided within a continuous **SIXTY (60)** day period, the time frame for review  
 1885 begins upon the re-initiation of care.

**Commented [BM122]:** Not new language. Broken out from above.

1886 (DE) LICENSED HCA Agency professional staff PERSONNEL shall promptly alert the physician or  
 1887 LICENSED INDEPENDENT PRACTITIONER attending intermediate care provider to any changes  
 1888 that suggest a need to alter the plan of care.

1889 (EF) If person-to-person contact WITH THE PHYSICIAN OR LICENSED INDEPENDENT PRACTITIONER  
 1890 OR THEIR DESIGNATED REPRESENTATIVE was not completed, or if awaiting a return  
 1891 response, all contacts and interactions shall be documented. The HCA agency shall have  
 1892 a written policy regarding how the HCA agency will intervene if the attending PHYSICIAN OR  
 1893 LICENSED INDEPENDENT PRACTITIONER care provider cannot be contacted or does not  
 1894 respond IN A timely MANNER.

1895 (G)(4) All orders shall contain sufficient information to carry out the order, name of the  
 1896 physician, LICENSED INDEPENDENT PRACTITIONER intermediate care provider and, if  
 1897 appropriate, representative conferring the order to the HCA.

1898 (H) ANY PROGRAM OR SERVICE OFFERED BY THE HCA, DIRECTLY OR UNDER ARRANGEMENT, SHALL  
 1899 BE PROVIDED IN ACCORDANCE WITH THE PLAN OF CARE AND HCA POLICY AND PROCEDURE.

1900 7.44.6.9 Medication Management

1901 (A) If the plan of care includes medication administration, medication management, or  
 1902 medication set-up, there shall be documentation IN THE CONSUMER RECORD as to who is  
 1903 responsible to monitor the medication supply, order refills, and ensure the timely delivery  
 1904 of medications. There shall be evidence that the plan has been developed with input from  
 1905 the consumer or authorized representative.

1906 (1) Medication review shall be documented when new medications are prescribed.

1907 (2) Medical MEDICATION review shall be documented periodically throughout the  
 1908 episode of care to determine if the consumer has added or eliminated  
 1909 medications or herbal products from the medication regime.

1910 (B) Drugs and treatments shall be administered by HCA agency staff PERSONNEL only as  
 1911 ordered by the physician or LICENSED INDEPENDENT PRACTITIONER intermediate care  
 1912 provider, and in accordance with professional standards of practice.

1913 (1) Influenza and pneumococcal polysaccharide Vaccines may be administered per  
 1914 HCA agency policy, developed in consultation with a physician and after an  
 1915 assessment for contraindications.

1916 (2) For consumers receiving medication administration services, a current  
 1917 medication administration record shall be maintained AS PART OF THE CONSUMER  
 1918 RECORD.

1919 (3) The PERSONNEL health professional administering medication(s) shall monitor for  
 1920 effectiveness, interactions, and adverse effects.

1921 (C) If controlled drugs are being administered by the HCA agency, there shall be a policy  
 1922 regarding how the drugs will be administered and monitored.

1923 (1) HCA's Agencies shall have a written policy stating how controlled drugs will be  
 1924 monitored if HCA agency staff PERSONNEL transports the drugs from the  
 1925 pharmacy to the consumer.

1926 7.42.6.10 CARE Coordination

**Commented [BM123]:** Will put any additional information related to acceptable contact with authorized representatives or the LIP in guidance as needed.

**Commented [BM124]:** Moved this language from General requirements section.



- 1927 (A) Care coordination shall be demonstrated for each consumer at least every ~~SIXTY (60)~~  
 1928 days for cases where there is more than one (1) agency sharing the provision of the  
 1929 same home health services. The minutes of these case conferences shall reflect  
 1930 discussion and input by all the disciplines providing care to the consumer.
- 1931 (B) The HCA shall be responsible for the coordination of consumer services both with  
 1932 internal ~~staff~~ ~~PERSONNEL~~ and known external services providing care and services to the  
 1933 same consumer.
- 1934 (C) ~~ALL PERSONNEL PROVIDING CARE ON BEHALF OF THE HCA, SHALL~~ ~~personnel furnishing~~  
 1935 ~~services maintain~~ ~~COMMUNICATION liaison~~ to ensure that their efforts are coordinated  
 1936 effectively and support the objectives outlined in the plan of care and as delineated  
 1937 through outside home care services.
- 1938 (D) The clinical record, care coordination notes, or minutes of case conferences establish  
 1939 that effective interchange, reporting, and coordination of consumer care do occur.
- 1940 (E) ~~THE HCA SHALL PREPARE A~~ written summary report, ~~for each consumer shall be~~  
 1941 ~~documented and WHICH SHALL BE~~ sent to the attending primary care provider, ~~as~~  
 1942 ~~appropriate, at least every SIXTY (60) days. THIS REPORT IS ONLY REQUIRED FOR~~  
 1943 ~~CONSUMERS WHO EXPERIENCED A CHANGE IN STATUS OR NEEDS THAT NECESSITATED A~~  
 1944 ~~CHANGE IN THE PLAN OF CARE DURING THE SIXTY (60)-DAY PERIOD.~~
- 1945 7.136.11 Extended Care
- 1946 (A) Extended care is defined as a total of six (6) or more hours of home health services  
 1947 provided in a ~~TWENTY-FOUR (24)~~-hour period by a licensed agency that provides skilled  
 1948 health services on a continuous basis.
- 1949 (A)(B) The ~~HCA~~ agency shall have a contingency plan regarding how the ~~case~~ ~~CARE~~ is managed  
 1950 if ~~a~~ ~~THE~~ scheduled ~~PERSONNEL~~ employee is unable to ~~CANNOT PROVIDE CARE~~ staff the case.
- 1951 (B)(C) A communication record shall also be ~~maintained~~ ~~AVAILABLE~~ in the home if a consumer is  
 1952 receiving extended care. ~~from a licensed or registered nurse.~~
- 1953 (1) The record shall contain:
- 1954 (a) The current plan of ~~CARE~~ ~~treatment~~,
- 1955 (b) Notes containing consumer status and continuing needs.,
- 1956 (c) ~~THE~~ ~~M~~ medication administration record, and
- 1957 (d) Any other information deemed necessary by the ~~HCA~~ ~~licensed~~ ~~agency~~.
- 1958 (2) If nurse aide service is the only service providing extended care, a home  
 1959 communication record is not required. ~~Written instructions shall be maintained in~~  
 1960 ~~the home and in the permanent record.~~
- 1961 (A) ~~WRITTEN INSTRUCTIONS SHALL BE MAINTAINED IN THE HOME AND IN THE~~  
 1962 ~~PERMANENT RECORD.~~
- 1963 (C)(D) The ~~HCA~~ agency shall have an orientation plan for the ~~PERSONNEL~~ staff providing the care  
 1964 to the consumers. Since extended care cases may involve highly technical services, this

Commented [BM125]: Not new language. Broken out from above.

1965 plan shall reflect how the HCA agency ensures that the individuals providing the extended  
 1966 care are qualified to provide these types of services.

1967 ~~(D)~~(E) Contracting for extended care services

1968 (1) A licensed HCA may contract with another entity to provide extended care in the  
 1969 licensed HCA agency's service area provided that administration, care, and  
 1970 supervision down to the consumer care level are ultimately the responsibility of  
 1971 the primary HCA agency.

1972 (2) The contract shall be in conformance with ~~PART section 6.185.9~~(F) of this  
 1973 chapter.

1974 (3) The contracted ~~staff~~PERSONNEL shall have completed the HCA agency orientation  
 1975 and competency EVALUATION appraisal for provisions of care and services for the  
 1976 extended care consumer. ~~Staff credentialing, orientation and competency~~  
 1977 ~~appraisal documentation shall be kept at the primary agency.~~

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

Commented [BM126]: Not new language. Broken out from above, with some slight modifications.

1980 ~~(E)~~(F) Prior to withdrawing skilled nursing or nurse aide services for an extended care  
 1981 consumer, the HCA shall:

1982 (1) Show continuing and documented efforts to resolve conflicts unless the safety of  
 1983 PERSONNEL staff is placed at immediate risk;

1984 (2) Provide evidence that ongoing efforts were made to recruit PERSONNEL staff or  
 1985 place THE CONSUMER with another HCA agency; and

1986 (3) Give the consumer or authorized representative FIFTEEN (15)-business days'  
 1987 notice of the intent to discharge the consumer unless staff or consumer safety is  
 1988 at immediate risk. ~~The HCA shall have evidence that such notice was delivered~~  
 1989 ~~in person or by certified mail.~~

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

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

1992 ~~7.14~~6.12 Skilled Nursing Services

1993 (A) The registered nurse shall be responsible for the following:

1994 (1) ~~CONDUCTING THE INITIAL ASSESSMENT AND COMPREHENSIVE ASSESSMENT~~ The  
 1995 ~~evaluation visit;~~

1996 (2) Regularly reevaluating the consumer's nursing needs;

1997 (3) Initiating the plan of care and necessary revisions;

1998 (4) Furnishing those services requiring substantial and specialized nursing skill;

1999 (5) Initiating appropriate preventive and rehabilitative nursing procedures;

2000 (6) Preparing clinical notes, coordinating services, and informing the physician and  
 2001 other personnel of changes in the consumer's condition and needs;

- 2002 (7) Counseling the consumer and family in meeting nursing and related needs; and
- 2003 (8) Participating in in-service programs, supervising, and teaching other nursing
- 2004 personnel.
- 2005 (B) The licensed practical nurse shall be responsible for the following:
  - 2006 (1) ~~PERFORMING NURSING SERVICES IN ACCORDANCE WITH THEIR SCOPE OF PRACTICE~~
  - 2007 ~~AND AS ASSIGNED BY THE PHYSICIAN, LICENSED INDEPENDENT PRACTITIONER, AND/OR~~
  - 2008 ~~REGISTERED NURSE;~~
  - 2009 (42) Furnishing services in accordance with HCA agency policies;
  - 2010 (23) Preparing clinical notes; AND
  - 2011 (3) ~~Assisting the physician, intermediate care provider and registered nurse in~~
  - 2012 ~~performing specialized procedures.~~
  - 2013 (4) ~~Preparing equipment and materials for treatments, observing aseptic technique~~
  - 2014 ~~as required, and~~
  - 2015 (54) Assisting the consumer in learning appropriate self-care techniques.
- 2016 7.156.13 Nurse Aide Services
- 2017 (A) The HCA agency shall select nurse aides on the basis of such factors as the ability to
- 2018 read, write, carry out directions, effectively communicate to demonstrate competency in
- 2019 the SAFE AND EFFECTIVE provision of care and services safely and effectively, and treat
- 2020 consumers with dignity and respect to person and property.
- 2021 (B) The HCA agency shall ensure that each nurse aide it employs is certified by DORA the
- 2022 Colorado Department of Regulatory Agencies within four (4) months of starting
- 2023 employment and that certification remains current. Each aide that provides care and
- 2024 services before PRIOR TO certification shall be supervised in the home by direct
- 2025 observation at least weekly for the first month of employment and every two (2) weeks
- 2026 thereafter until certification is obtained.
  - 2027 (1) HCAs THAT EMPLOY NURSE AIDES AWAITING CERTIFICATION SHALL DO SO IN
  - 2028 ACCORDANCE WITH 12-255-214, C.R.S.
- 2029 (C) The HCA agency shall complete a competency assessment with direct observation of
- 2030 each nurse aide before assignment, in accordance with PART XXX section 7.16 of this
- 2031 chapter.
- 2032 (D) For all consumers who are receiving skilled care and need nurse aide services, the
- 2033 supervising healthcare professional shall, during supervisory visits, accomplish the
- 2034 following:
  - 2035 (1) Obtain the consumer's input, or that of the consumer's authorized representative,
  - 2036 regarding the nurse aide assignment form, including all tasks to be performed
  - 2037 during each scheduled time period.
    - 2038 (a) Details such as, but not limited to, housekeeping duties and standby
    - 2039 assistance shall be negotiated and included on the nurse aide
    - 2040 assignment form so that all obligations and expectations are clear.

**Commented [BM128]:** Created a broader requirement and modified and integrated original (3) into this point

**Commented [BM129]:** 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...

- 2041 (b) The nurse aide assignment form shall contain information regarding
- 2042 special functional limitations and needs, safety considerations, special
- 2043 diets, special equipment, and any other information that is pertinent to
- 2044 the care that will be given by the **NURSE** aide.
  
- 2045 (c) The HCA shall ensure that the consumer or the consumer's authorized
- 2046 representative approves and signs the form, is provided a copy at the
- 2047 beginning of services, and at least **ANNUALLY**. ~~once per year thereafter.~~
  
- 2048 (d) Provide each consumer and/or the consumer's authorized representative
- 2049 with a new copy of the consumer rights form and explain those rights at
- 2050 least annually.
  
- 2051 (e) If nurse aide services are provided to a consumer who is receiving in-
- 2052 home care by a **NURSE AIDE** ~~health professional~~, the supervising health
- 2053 care professional, in accordance with the professional's scope of practice
- 2054 and state and federal law, shall make ~~A~~ **an on-site** supervisory visit **NO**
- 2055 **LESS THAN EVERY TWO (2) WEEKS TO SUPERVISE THE NURSE AIDE SERVICES.**
- 2056 **THE VISIT SHALL BE CONDUCTED EITHER IN to the consumer's home OR VIA**
- 2057 **TELEHEALTH, IN ACCORDANCE WITH THE REQUIREMENTS IN PART 6.17(A)(1).**
- 2058 ~~no less frequently than every two (2) weeks to supervise the nurse aide~~
- 2059 ~~SERVICES. Direct observation of care being provided by the nurse aide~~
- 2060 ~~shall occur at least every 60 days. More frequent direct supervision shall~~
- 2061 ~~occur if there are adverse changes in the consumer's condition,~~
- 2062 ~~complaints received associated with the provision of care by an aide,~~
- 2063 ~~supervision requested by the nurse aide or consumer for specific issues~~
- 2064 ~~or other matters concerning the provisions of care by the nurse aide.~~
  
- 2065 (i) **DIRECT OBSERVATION OF CARE BEING PROVIDED BY THE NURSE AIDE**
- 2066 **SHALL OCCUR AT LEAST EVERY SIXTY (60) DAYS IN THE CONSUMER'S**
- 2067 **HOME.**
  
- 2068 (ii) **MORE FREQUENT DIRECT SUPERVISION SHALL OCCUR IF THERE ARE**
- 2069 **ADVERSE CHANGES IN THE CONSUMER'S CONDITION, COMPLAINTS**
- 2070 **RECEIVED ASSOCIATED WITH THE PROVISION OF CARE BY A NURSE**
- 2071 **AIDE, SUPERVISION REQUESTED BY THE NURSE AIDE OR CONSUMER**
- 2072 **FOR SPECIFIC ISSUES, OR OTHER MATTERS CONCERNING THE**
- 2073 **PROVISIONS OF CARE BY THE NURSE AIDE.**
  
- 2074 (f) If nurse aide services are provided to a consumer who is not receiving in-
- 2075 home care by a health professional, a supervisory visit with the nurse
- 2076 aide present at the consumer's home shall occur no less frequently than
- 2077 every **SIXTY (60)** days. ~~More frequent direct supervision shall occur if~~
- 2078 ~~there are adverse changes in the consumer's condition, complaints~~
- 2079 ~~received associated with the provision of care by an aide, supervision~~
- 2080 ~~requested by the nurse aide or consumer for specific issues, or other~~
- 2081 ~~matters concerning the provisions of care by the nurse aide.~~
  
- 2082 (i) **MORE FREQUENT DIRECT SUPERVISION SHALL OCCUR IF THERE ARE**
- 2083 **ADVERSE CHANGES IN THE CONSUMER'S CONDITION, COMPLAINTS**
- 2084 **RECEIVED ASSOCIATED WITH THE PROVISION OF CARE BY A NURSE**
- 2085 **AIDE, SUPERVISION REQUESTED BY THE NURSE AIDE OR CONSUMER**
- 2086 **FOR SPECIFIC ISSUES, OR OTHER MATTERS CONCERNING THE**
- 2087 **PROVISIONS OF CARE BY THE NURSE AIDE.**
  
- 2088 7.46 (E) Nurse aide training and orientation

**Commented [BM130]:** Removed the on-site requirement and added language around telehealth supervision at proposed 6.17

**Commented [BM131]:** Not new language. Broken out from above.

**Commented [BM132]:** Now new language. Broken out from above.

**Commented [BM133]:** Moved under Nurse Aide Services subsection

- 2089 (A1) The HCA shall ensure that skills learned or tested elsewhere can be transferred  
 2090 successfully to the care of the consumer in his/~~her~~THEIR place of residence. This  
 2091 review of skills could be done when the nurse installs an aide into a new  
 2092 consumer care situation, during a supervisory visit, or as part of the annual  
 2093 performance review. ~~A mannequin may not be used for this evaluation.~~ A  
 2094 PSEUDO-PATIENT MAY BE USED FOR THIS EVALUATION.
- 2095 (B2) If the HCA's admission policies and the case-mix of HCA consumers demand  
 2096 that the NURSE aide care for individuals whose personal care and basic nursing or  
 2097 therapy needs require more complex training than the minimum required in the  
 2098 regulation, the HCA shall document how these additional skills are taught and  
 2099 validated.
- 2100 (C3) The HCA shall establish a process for standardized, step-by-step observation  
 2101 and evaluation of nurse aide competency in the following subject areas prior to  
 2102 the assignment of tasks requiring direct observation of items (3C), (9I), (40J) and  
 2103 (14K) of this paragraph (C3).
- 2104 (4A) Communications skills;
- 2105 (2B) Observation, reporting, and documentation of consumer status and the  
 2106 care or service furnished;
- 2107 (3C) Reading and recording temperature, pulse, and respiration;
- 2108 (4D) Basic infection control procedures;
- 2109 (5E) Basic elements of body functioning and changes in body function that  
 2110 shall be reported to an NURSE aide's supervisor;
- 2111 (6F) Maintenance of a clean, safe, and healthy environment;
- 2112 (7G) Recognizing emergencies and knowledge of emergency procedures;
- 2113 (8H) The physical, emotional, and developmental needs of, and methods to  
 2114 work with, the populations served by the HCA including the need for  
 2115 respect of the consumer, his-~~er~~THEIR privacy, and property;
- 2116 (9I) Appropriate and safe techniques in personal hygiene and grooming that  
 2117 include:
- 2118 (a) Bathing, INCLUDING BED/SPONGE, TUB, AND SHOWER;
- 2119 (i) ~~Bed/sponge,~~
- 2120 (ii) ~~Tub, and~~
- 2121 (iii) ~~Shower,~~
- 2122 (b) Shampoo, INCLUDING SINK, TUB, AND BED;
- 2123 (i) ~~Sink,~~
- 2124 (ii) ~~Tub, and~~

**Commented [BM134]:** CMS requirement is for competency to be evaluated using a patient or a pseudo-patient. Added pseudo-patient to definitions.

- 2125 (iii) ~~Bed,~~
- 2126 (ciii) Nail and skin care~~;~~
- 2127 (dii) Oral hygiene~~;~~ and
- 2128 (ev) Toileting and elimination;
- 2129 (10J) Safe transfer techniques and ambulation;
- 2130 (11K) Normal range of motion and positioning; and
- 2131 (12L) Adequate nutrition and fluid intake.
- 2132 (D4) Written assignment and instructions for the nurse aide shall be prepared by the
- 2133 registered nurse or other appropriate professional who is responsible for the
- 2134 supervision of the nurse aide.
- 2135 (1A) The nurse aide assigned and instructed to provide only those services
- 2136 the aide is permitted to perform under state law and deemed competent
- 2137 to perform.
- 2138 (2B) The written assignment reflects the consumer's plan of care orders.
- 2139 (3C) The written instructions of the assignment shall consider the skills of the
- 2140 nurse aide, the amount and kind of supervision needed, and the specific
- 2141 nursing or therapy needs of the consumer.
- 2142 (ai) The written instructions shall detail the procedures for the
- 2143 consumer's unique care needs.
- 2144 (bi) The written instructions shall identify when the nurse aide should
- 2145 report to the supervising professional.
- 2146 (4D) The written assignment and instructions shall be reviewed every ~~SIXTY~~
- 2147 (60) days or more frequently as changes in the consumer's status and
- 2148 needs occur.
- 2149 ~~7.17.6.14~~ Therapy ~~S~~services
- 2150 (A) Any therapy services~~S~~ offered by the HCA, directly or under arrangement, shall be
- 2151 provided by a qualified therapist or by a qualified therapy assistant under the supervision
- 2152 of a qualified therapist and in accordance with the plan of care. ~~The qualified therapist~~
- 2153 ~~assists the physician or intermediate care provider in evaluating level of function, helps~~
- 2154 ~~develop the plan of care (revising it as necessary), prepares clinical notes, advises and~~
- 2155 ~~consults with the family and other agency personnel, and participates in in-service~~
- 2156 ~~programs.~~
- 2157 (B) ~~THE QUALIFIED THERAPIST SHALL ASSIST THE PHYSICIAN OR LICENSED INDEPENDENT~~
- 2158 ~~PRACTITIONER IN EVALUATING LEVEL OF FUNCTION, HELP DEVELOP THE PLAN OF CARE (REVISING~~
- 2159 ~~IT AS NECESSARY), PREPARE CLINICAL NOTES, ADVISE AND CONSULT WITH THE FAMILY AND~~
- 2160 ~~OTHER AGENCY PERSONNEL, AND PARTICIPATE IN IN-SERVICE PROGRAMS.~~
- 2161 (BC) Supervision of therapy assistants

Commented [SA135]: Moved to (B) below

2162 (1) A physical therapist assistant, occupational therapy assistant, or respiratory  
 2163 therapy assistant performs services directed from a written plan of care,  
 2164 delegated, and supervised by a qualified therapist, assists in preparing clinical  
 2165 notes and progress reports, participates in educating the consumer and family,  
 2166 and participates in in-service programs. ~~Onsite supervision shall occur in  
 2167 accordance with the agency's policies and procedures, plan of care, and  
 2168 professional standards of practice.~~

**Commented [BM136]:** Moved to 6.17(A)(2)(a) in telehealth supervisory visits

2169 ~~7.186.15~~ Medical ~~S~~social ~~S~~services

2170 (A) ~~If the agency furnishes medical social services, those services shall be given by a~~  
 2171 ~~qualified social worker in accordance with the plan of care. ANY MEDICAL SOCIAL SERVICES~~  
 2172 ~~OFFERED BY THE HCA, DIRECTLY OR UNDER ARRANGEMENT, SHALL BE PROVIDED BY A~~  
 2173 ~~QUALIFIED SOCIAL WORKER IN ACCORDANCE WITH THE PLAN OF CARE.~~

**Commented [BM137]:** Recommended reword to be consistent with therapy & other healthcare services.

2174 (B) The social worker shall be responsible for the following:

2175 (1) Assisting the physician, or ~~LICENSED INDEPENDENT PRACTITIONER~~ ~~intermediate care~~  
 2176 ~~provider~~ and other team members in understanding the significant social and  
 2177 emotional factors related to the health problems,

2178 (2) Participating in the development of the plan of care,

2179 (3) Preparing clinical notes,

2180 (4) Working with the family,

2181 (5) ~~Using~~ ~~CONNECTING THE CONSUMER WITH~~ appropriate community resources,

2182 (6) Participating in discharge planning and in-service programs, and

2183 (7) Acting as a consultant to other ~~agency~~ ~~HCA~~ personnel.

2184 ~~7.196.16~~ Other ~~H~~healthcare ~~S~~services

2185 (A) Any healthcare services offered by the HCA, directly or under arrangement, are given by  
 2186 a qualified healthcare professional or by ~~A~~ qualified healthcare professional assistant  
 2187 under the supervision of a qualified healthcare professional and in accordance with the  
 2188 plan of care. ~~The qualified healthcare professional assists the physician or intermediate~~  
 2189 ~~care provider in evaluating the needs of the consumer, helps develop the plan of care~~  
 2190 ~~(revising it as necessary), prepares clinical notes, advises and consults with the family~~  
 2191 ~~and other agency personnel, and participates in in-service programs.~~

2192 (B) ~~THE QUALIFIED HEALTHCARE PROFESSIONAL ASSISTS THE PHYSICIAN OR LICENSED~~  
 2193 ~~INDEPENDENT PRACTITIONER IN EVALUATING THE NEEDS OF THE CONSUMER, HELPS DEVELOP~~  
 2194 ~~THE PLAN OF CARE (REVISING IT AS NECESSARY), PREPARES CLINICAL NOTES, ADVISES AND~~  
 2195 ~~CONSULTS WITH THE FAMILY AND OTHER AGENCY PERSONNEL, AND PARTICIPATES IN IN-SERVICE~~  
 2196 ~~PROGRAMS.~~

2197 (C) Supervision of assistants

2198 (1) An assistant to the healthcare professional performs services directed from a  
 2199 written plan of care, delegated, and supervised by a qualified health professional,  
 2200 assists in preparing clinical notes and progress reports, ~~and~~ participates in  
 2201 educating the consumer and family, and participates in in-service programs.

2202 Onsite supervision shall occur in accordance with policy and procedure, the plan  
2203 of care and professional standards of practice.

**Commented [BM138]:** Moved to 6.17(A)(3)(a) in telehealth supervisory visits

2204 **6.17 TELEHEALTH SUPERVISORY VISITS**

2205 (A) THE HCA MAY CONDUCT SUPERVISORY VISITS USING TELEHEALTH FOR THE FOLLOWING  
2206 SERVICES, SO LONG AS THE HCA CONTINUES TO ENSURE CONSUMER CARE AND TREATMENT  
2207 ARE DELIVERED IN ACCORDANCE WITH A PLAN OF CARE THAT ADDRESSES THE CONSUMER'S  
2208 STATUS AND NEEDS.

2209 (1) FOR NURSE AIDE SERVICES, THE SUPERVISING HEALTHCARE PROFESSIONAL MAY  
2210 EVALUATE THE DELIVERY OF CARE AND SERVICES REQUIRED EVERY TWO (2) WEEKS AT  
2211 PART 6.13(D)(1)(E) THROUGH AN INTERACTIVE AUDIOVISUAL CONNECTION WITH THE  
2212 CONSUMER. THE RESULTS OF THE SUPERVISORY VISIT MUST BE DOCUMENTED BY THE  
2213 SUPERVISING HEALTHCARE PROFESSIONAL.

**Commented [BM139]:** Guidance: must have audiovisual connection or continue to do in person; language around our preference at the Dept? Continue in person?

2214 (A) AN IN-PERSON SUPERVISORY VISIT WITH THE NURSE AIDE AND CONSUMER IS  
2215 REQUIRED AT LEAST EVERY SIXTY (60) DAYS IF NURSE AIDE SERVICES ARE  
2216 PROVIDED TO A CONSUMER WHO IS RECEIVING IN-HOME CARE BY A NURSE  
2217 AIDE.

2218 (2) FOR THERAPY SERVICES, SUCH AS PHYSICAL THERAPY, OCCUPATIONAL THERAPY, AND  
2219 SPEECH THERAPY, SUPERVISION OF ASSISTANTS REQUIRED AT PART 6.14(C) MAY BE  
2220 PROVIDED THROUGH AN INTERACTIVE AUDIOVISUAL CONNECTION AND IN ACCORDANCE  
2221 WITH ALL APPLICABLE STATE LAWS AND REGULATIONS.

2222 (A) AN IN-PERSON SUPERVISORY VISIT SHALL OCCUR IN ACCORDANCE WITH THE  
2223 HCA'S POLICIES AND PROCEDURES, THE PLAN OF CARE, AND PROFESSIONAL  
2224 STANDARDS OF PRACTICE.

**Commented [BM140]:** Not new language; moved from therapy services.

2225 (3) FOR OTHER HEALTHCARE SERVICES, SUPERVISION OF ASSISTANTS REQUIRED AT PART  
2226 6.16(C) MAY BE PROVIDED THROUGH AN INTERACTIVE AUDIOVISUAL CONNECTION AND  
2227 IN ACCORDANCE WITH ALL APPLICABLE STATE LAWS AND REGULATIONS.

2228 (A) AN IN-PERSON SUPERVISORY VISIT SHALL OCCUR IN ACCORDANCE WITH THE  
2229 HCA'S POLICIES AND PROCEDURES, THE PLAN OF CARE, AND PROFESSIONAL  
2230 STANDARDS OF PRACTICE.

**Commented [BM141]:** Not new language; moved from other healthcare services.

2231 (B) AN IN-PERSON SUPERVISORY VISIT IS REQUIRED TO EVALUATE CONSUMER COMPLAINTS RELATED  
2232 TO THE DELIVERY OF CARE WHEN SUCH CONCERNS CANNOT BE SUCCESSFULLY ADDRESSED  
2233 REMOTELY THROUGH AN INTERACTIVE AUDIOVISUAL CONNECTION.

2234 (C) ALL OTHER GENERAL REQUIREMENTS FOR SUPERVISORY VISITS, SUCH AS DOCUMENTATION AND  
2235 MEETING THE SAME STANDARD OF CARE, MUST BE MET.

2236 **6.18 CLINICAL RECORD**

2237 (A) IN ADDITION TO THE REQUIREMENTS IN PART 5.15, AN HCA PROVIDING SKILLED CARE SHALL  
2238 COMPLY WITH THE FOLLOWING REQUIREMENTS:

2239 (1) THE INITIAL AND COMPREHENSIVE ASSESSMENTS SHALL BE DOCUMENTED IN THE  
2240 CONSUMER RECORD AND SHALL INCLUDE THE CONSUMER'S CURRENT COMPREHENSIVE  
2241 ASSESSMENT, INCLUDING ALL OF THE ASSESSMENTS FROM THE MOST RECENT HCA  
2242 ADMISSION, CLINICAL NOTES, PLANS OF CARE, AND PHYSICIAN OR LICENSED  
2243 INDEPENDENT PRACTITIONER ORDERS.

**Commented [BM142]:** SOM language



2244 (2) THE RECORD SHALL INCLUDE ALL INTERVENTIONS, INCLUDING MEDICATION  
 2245 ADMINISTRATION, TREATMENTS, AND SERVICES, AND RESPONSES TO THOSE  
 2246 INTERVENTIONS.

Commented [SA143]: SOM language

2247 PART Section 87. NON-MEDICAL/PERSONAL CARE

2248 87.1 Governing bBody

2249 (A) ~~Each agency HCA shall have a governing body having legal authority and responsibility~~  
 2250 ~~for the conduct of the agency HCA. At least one (1) member shall have knowledge of~~  
 2251 ~~agency HCA operations.~~

2252 (A) AN HCA MAY CHOOSE TO CONVENE A GOVERNING BODY THAT SHALL HAVE LEGAL AUTHORITY  
 2253 AND RESPONSIBILITY FOR THE CONDUCT OF THE HCA. IF AN HCA DOES NOT CONVENE A  
 2254 GOVERNING BODY, THE HCA SHALL DESIGNATE AN INDIVIDUAL WHO SHALL HAVE RESPONSIBILITY  
 2255 FOR ALL TASKS AS SET FORTH IN THIS PART 7.1.

2256 (B) AT LEAST ONE (1) MEMBER OF THE GOVERNING BODY OR DESIGNEE SHALL HAVE KNOWLEDGE OF  
 2257 HCA OPERATIONS.

Commented [BM144]: Not new language. Broken out from above.

2258 (BC) For the purposes of this section, the governing body OR DESIGNEE shall:

2259 (1) Have bylaws or A GOVERNING DOCUMENT the equivalent, which THAT SHALL SPECIFY  
 2260 THE PROGRAMS AND SERVICES OFFERED BY THE HCA, AND be reviewed and revised  
 2261 as needed;

Commented [BM145]: Combined and modified (1) and (2)

2262 (2) ~~The bylaws or the equivalent shall specify the objectives of the agency;~~

2263 (3) Designate and employ an agency HCA manager;

2264 (4) ~~Develop and adopt, review annually, and revise as needed, policies and~~  
 2265 ~~procedures for the operation and administration of the agency HCA, TO BE~~  
 2266 ~~REVIEWED ANNUALLY AND REVISED AS NEEDED;~~

2267 (4) ENSURE ANY PROGRAM OR SERVICE OFFERED BY THE HCA, DIRECTLY OR UNDER  
 2268 ARRANGEMENT, SHALL BE PROVIDED IN ACCORDANCE WITH THE SERVICE PLAN AND  
 2269 HCA POLICY AND PROCEDURE;

2270 (5) Review the operations of the agency HCA at least annually;

2271 (6) Keep minutes of all meetings;

2272 (7) Provide and maintain a fixed office location, that provides for consumer  
 2273 confidentiality and a safe working environment; and

2274 (8) Organize services furnished, administrative control, and lines of authority for the  
 2275 delegation of responsibility down to the consumer care level that are clearly set  
 2276 forth in writing and are readily identifiable.

2277 8.2 Administration

2278 (A) ~~The agency shall have written administrative policies and procedures to ensure safe and~~  
 2279 ~~adequate care of the consumer.~~

2280 (D) AGENCY EVALUATION

Commented [BM146]: Modified from skilled care; will need guidance on this requirement for Class B HCAs

- 2281 (1) THE HCA'S GOVERNING BODY OR DESIGNEE SHALL CONDUCT A COMPREHENSIVE  
2282 EVALUATION OF THE HCA'S TOTAL OPERATION AT LEAST ANNUALLY.
- 2283 (2) THE EVALUATION SHALL ASSURE THE APPROPRIATENESS AND QUALITY OF THE HCA'S  
2284 SERVICES WITH FINDINGS USED TO VERIFY POLICY IMPLEMENTATION, TO IDENTIFY  
2285 PROBLEMS, AND TO ESTABLISH PROBLEM RESOLUTION AND POLICY REVISION AS  
2286 NECESSARY, AND SHALL INCLUDE ANY FINDINGS OR IMPROVEMENT STRATEGIES  
2287 IDENTIFIED BY THE HCA'S QUALITY MANAGEMENT PROGRAM REQUIRED IN PART 5.12.
- 2288 (3) THE HCA SHALL IMPLEMENT A METHOD FOR ONGOING PROCESS IMPROVEMENT AND  
2289 POLICY AND ADMINISTRATIVE REVIEW, WHICH INCLUDES A REVIEW OF THE SCOPE OF  
2290 SERVICES OFFERED, ARRANGEMENTS FOR SERVICES WITH OTHER AGENCIES OR  
2291 INDIVIDUALS, ADMISSION AND DISCHARGE POLICIES, SUPERVISION AND SERVICE PLAN,  
2292 URGENT CONSUMER CARE, SERVICE RECORDS, AND PERSONNEL QUALIFICATIONS.
- 2293 (A) THE HCA SHALL IMPLEMENT AN ON-GOING MECHANISM FOR CONSUMER  
2294 INVOLVEMENT TO PROVIDE INPUT AND COMMENT REGARDING SERVICES  
2295 PROVIDED BY THE HCA IN ACCORDANCE WITH HCA POLICY.
- 2296 (B) ALL FINDINGS FROM THE POLICY AND ADMINISTRATIVE REVIEW AND CONSUMER  
2297 INPUT AND COMMENTARY SHALL BE PROVIDED TO THE GOVERNING BODY AT  
2298 LEAST ANNUALLY TO IDENTIFY TRENDS OR ISSUES REQUIRING CONSIDERATION.
- 2299 (4) IN EVALUATING EACH ASPECT OF ITS TOTAL PROGRAM, THE HCA SHALL CONSIDER  
2300 FOUR (4) MAIN CRITERIA:
- 2301 (A) APPROPRIATENESS - ASSURANCE THAT THE AREA BEING EVALUATED  
2302 ADDRESSES EXISTING AND/OR POTENTIAL PROBLEMS.
- 2303 (B) ADEQUACY - A DETERMINATION AS TO WHETHER THE HCA HAS THE CAPACITY  
2304 TO OVERCOME OR MINIMIZE EXISTING OR POTENTIAL PROBLEMS.
- 2305 (C) EFFECTIVENESS - THE SERVICES OFFERED ACCOMPLISH THE OBJECTIVES OF  
2306 THE HCA AND ANTICIPATED CONSUMER OUTCOMES.
- 2307 (D) EFFICIENCY - WHETHER THERE IS A MINIMAL EXPENDITURE OF RESOURCES BY  
2308 THE HCA TO ACHIEVE DESIRED GOALS AND ANTICIPATED CONSUMER  
2309 OUTCOMES.
- 2310 (5) DOCUMENTATION OF THE ANNUAL EVALUATION SHALL INCLUDE THE NAMES AND TITLES  
2311 OF THE PERSONS CARRYING OUT THE EVALUATION, THE CRITERIA AND METHODS USED  
2312 TO ACCOMPLISH IT, AND ANY ACTION TAKEN BY THE HCA AS A RESULT OF ITS FINDINGS.
- 2313 (6) APPROPRIATE QUALIFIED INDIVIDUALS REPRESENTING THE PROGRAMS AND SERVICES  
2314 OFFERED BY THE HCA SHALL EVALUATE THE HCA'S CONSUMER RECORDS ON AN  
2315 ONGOING BASIS, BUT NO LESS THAN QUARTERLY.
- 2316 (A) THE EVALUATION SHALL INCLUDE A REVIEW OF SAMPLE ACTIVE AND CLOSED  
2317 CONSUMER RECORDS TO ENSURE THAT HCA POLICIES ARE FOLLOWED IN  
2318 PROVIDING SERVICES, BOTH DIRECTLY AND UNDER ARRANGEMENT, AND TO  
2319 ASSURE THAT THE QUALITY OF SERVICE IS SATISFACTORY AND APPROPRIATE.  
2320 THE REVIEW SHALL CONSIST OF A REPRESENTATIVE SAMPLE OF ALL HOME  
2321 CARE SERVICES PROVIDED BY THE HCA.

Commented [BM147]: Slight modifications from Skilled Care to reflect non-medical

2322 8-37.2 Agency HCA mManager

2323 (A) ~~THE HCA'S GOVERNING BODY OR DESIGNEE~~ A licensed home care agency providing  
 2324 ~~personal care services shall designate~~ APPOINT an HCA agency manager to supervise the  
 2325 provision of these HCA'S services.

2326 (B) The HCA agency manager shall meet the following qualifications:

2327 (1) Be at least TWENTY-ONE (21) years of age, possess a high school diploma or  
 2328 GED, and at least one (1) year documented supervisory experience in the  
 2329 provision of personal care services;

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

**Commented [BM148]:** 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.

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

**Commented [BM149]:** Clarify in guidance document that college degree means associate's degree or higher

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

2339 (2) Be able to communicate and understand return communication effectively in  
 2340 exchanges between the consumer, family representatives, and other providers,  
 2341 ~~INCLUDING THE USE OF APPROPRIATE TRANSLATOR SERVICES AS NEEDED;~~

**Commented [BM150]:** Add Language Access and Effective Communication Policy from OBH in guidance

2342 (3) Have successfully completed an eight (8) hour agency manager training course.  
 2343 Additional related annual training that equals TWELVE (12) hours shall be required  
 2344 in the first year and annually thereafter;

2345 (a) Any person commencing service as an HCA agency manager after  
 2346 January 1, 2011, shall meet the minimum training requirements  
 2347 approved by the Department pursuant to section 8.3(D) PART 7.2(D) of  
 2348 this chapter; or provide documented and confirmed previous job related  
 2349 experience or related education equivalent to successful completion of  
 2350 such program. The Department may require additional training to  
 2351 ensure that all the required components of the training curriculum are  
 2352 met.

2353 (b) A copy of the certificate of completion shall be retained in the  
 2354 HCA agency manager's personnel file.

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

**Commented [BM151]:** Recommend striking since language is outdated; was included when the regulations were initially in place.

~~(i) Successful completion of a program approved by the  
 department, pursuant to section 8.3(D) of this chapter, if  
 completed within a period of six (6) months following January 1,  
 2011;~~

~~(ii) Submission of evidence of successful completion of such training  
 within the previous five (5) years before January 1, 2011; or~~

- 2364 (iii) ~~Documented and confirmed previous job related experience~~  
 2365 ~~equivalent to successful completion of such a program that~~  
 2366 ~~encompasses the items in section 8.3(D)(2) of this chapter.~~
- 2367 (4) Be familiar with all applicable local, state, and federal laws and regulations  
 2368 concerning the operation and provision of home care services.
- 2369 (C) The ~~HCA~~ agency manager shall be responsible for ensuring:
- 2370 (1) The ~~agency~~ HCA is in compliance with all applicable federal, state, and local  
 2371 laws;
- 2372 (2) ~~THE C~~Completion, maintenance, and submission of such reports and records as  
 2373 required by the ~~d~~Department;
- 2374 (3) Ongoing liaison with the governing body ~~OR DESIGNEE~~, staff members, and the  
 2375 community;
- 2376 (4) ~~MAINTENANCE OF A~~ current organizational chart to show lines of authority down  
 2377 to the consumer level;
- 2378 (5) ~~MAINTENANCE OF A~~Appropriate personnel, bookkeeping, and administrative  
 2379 records and policies and procedures of the ~~agency~~ HCA;
- 2380 (6) Orientation of new ~~PERSONNEL~~ staff, ~~AND~~ regularly scheduled in-service education  
 2381 programs and opportunities for continuing education ~~ARE PROVIDED~~ for the  
 2382 ~~PERSONNEL~~ staff;
- 2383 (7) ~~Designation~~ ~~DESIGNATING~~ in writing ~~OF~~ the qualified staff member to act in the  
 2384 absence of the manager;
- 2385 (8) Availability of the manager or designee for all hours that ~~employees~~ ~~PERSONNEL~~  
 2386 are providing services; ~~and~~
- 2387 (9) ~~All m~~Marketing, advertising, and promotional information accurately represent the  
 2388 HCA and address the care, treatment, and services that the HCA can provide  
 2389 directly or through contractual arrangement;
- 2390 (10) ~~MAINTENANCE OF A COORDINATED HCA-WIDE PROGRAM FOR APPROPRIATE INFECTION~~  
 2391 ~~PREVENTION AND CONTROL THAT IS AN INTEGRAL PART OF THE HCA'S QUALITY~~  
 2392 ~~MANAGEMENT PROGRAM; AND~~
- 2393 (11) ~~THE IMPLEMENTATION AND MONITORING OF THE HCA'S TRAINING PROGRAM FOR ALL~~  
 2394 ~~HOMEMAKERS AND PERSONAL CARE WORKERS, INCLUDING MANAGING OR DELEGATING~~  
 2395 ~~EMPLOYEE TRAINING AND DEVELOPMENT ACTIVITIES FOR THE HCA.~~
- 2396 (D) An ~~agency~~ HCA manager training program shall be approved by the ~~d~~Department if:
- 2397 (1) The program or its components are conducted by an accredited college,  
 2398 university, or vocational school; or an organization, association, corporation,  
 2399 group, or agency with specific expertise in that area and the curriculum includes  
 2400 at least eight (8) actual hours of training.
- 2401 (2) Instruction includes, at a minimum, discussion of each ~~OF~~ the following topics:

Commented [BM152]: SOM §484.70(b) language

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

- 2402 (a) Home care overview including other agency types providing services and
- 2403 how to interact and coordinate, ~~with each~~ including limitations of personal
- 2404 care versus health care services;
- 2405 (b) Regulatory responsibilities and compliance, including, but not limited to:
- 2406 (i) Consumer rights,
- 2407 (ii) Governing body **OR DESIGNEE** responsibilities,
- 2408 (iii) Quality management plans,
- 2409 (iv) Occurrence reporting, and
- 2410 (v) Complaint investigation and resolution process;
- 2411 (c) Personnel qualifications, experience, competency and evaluations, staff
- 2412 training, and supervision;
- 2413 (d) Needs of the fragile, ill, and physically, and cognitively, **AND/OR**
- 2414 **DEVELOPMENTALLY** disabled in the community setting regarding special
- 2415 training and staffing considerations; and
- 2416 (e) Behavior management techniques.

8.4 **Supervisor**

- 2418 (A) The supervisor shall:
- 2419 (1) ~~Be at least 18 years of age,~~
- 2420 (2) ~~Have appropriate experience or training in the home care industry or closely~~
- 2421 ~~related personal care services in accordance with agency policy, and~~
- 2422 (3) ~~Have completed training in the provision of personal care services.~~

**Commented [BM153]:** Moved down below training to 7.7 so that it is with Supervision.

7.3 **HOMEMAKER**

- 2424 (A) **A HOMEMAKER SHALL COMPLETE TRAINING, IN ACCORDANCE WITH THE FOLLOWING**
- 2425 **REQUIREMENTS, PRIOR TO PROVIDING SERVICES INDEPENDENTLY.**
- 2426 (B) **A HOMEMAKER MUST COMPLETE TRAINING AS SPECIFIED IN PART 7.3(C) AND PASS A**
- 2427 **COMPETENCY EVALUATION THAT INCLUDES A VISUAL OBSERVATION AND EVALUATION OF**
- 2428 **RELEVANT SKILLS, PRIOR TO PROVIDING CARE TO A CONSUMER.**
- 2429 (1) **IF THE HCA UTILIZES ANOTHER ENTITY TO PROVIDE THE TRAINING, THE HCA MUST**
- 2430 **VALIDATE THE TRAINING PROGRAM MEETS THE REQUIREMENTS IN PART 7.3(C) BELOW**
- 2431 **AND RETAIN EVIDENCE OF THE INDIVIDUAL'S SUCCESSFUL COMPLETION OF THE**
- 2432 **TRAINING PROGRAM IN THE PERSONNEL RECORD.**
- 2433 (C) **HOMEMAKER TRAINING**
- 2434 (1) **ALL HOMEMAKER STAFF SHALL COMPLETE HCA TRAINING BEFORE INDEPENDENTLY**
- 2435 **PROVIDING SERVICES TO CONSUMERS. INITIAL TRAINING MUST BE INTERACTIVE IN**
- 2436 **NATURE AND MAY BE COMPLETED THROUGH THE FOLLOWING MODES: IN-PERSON,**

**Commented [BM154]:** 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.

- 2437 ONLINE/VIRTUAL, OR A HYBRID, WITH DEMONSTRATION OF LEARNED CONCEPTS.  
2438 INITIAL TRAINING SHALL INCLUDE:
- 2439 (A) PERSONNEL DUTIES AND RESPONSIBILITIES, INCLUDING BUT NOT LIMITED  
2440 TO INCIDENT REPORTING AND MANDATORY REPORTING;
- 2441 (B) RULES FOR NON-MEDICAL CARE AND SERVICES AS DESCRIBED IN THIS  
2442 CHAPTER;
- 2443 (C) THE DIFFERENCES IN HOMEMAKER AND PERSONAL CARE;
- 2444 (D) CONSUMER RIGHTS INCLUDING FREEDOM FROM ABUSE OR NEGLECT, AND  
2445 CONFIDENTIALITY OF PERSONAL, FINANCIAL, AND HEALTH INFORMATION;
- 2446 (E) BASIC HEALTH AND SAFETY, INCLUDING BUT NOT LIMITED TO, HOME  
2447 SAFETY, FALL PREVENTION, HAND WASHING, AND INFECTION CONTROL;
- 2448 (F) ASSIGNMENT AND SUPERVISION OF SERVICES;
- 2449 (G) COMMUNICATION SKILLS;
- 2450 (H) THE PHYSICAL, EMOTIONAL, AND DEVELOPMENTAL NEEDS OF, AND  
2451 METHODS TO WORK WITH, THE POPULATIONS SERVED AND ASSIGNMENT OF  
2452 CONSUMERS BY THE HCA, INCLUDING THE NEED FOR RESPECT OF THE  
2453 CONSUMER, THEIR PRIVACY, AND PROPERTY; AND
- 2454 (I) TRAINING AND CORE COMPETENCY EVALUATION OF HOMEMAKING AND  
2455 HOUSEKEEPING SKILLS, INCLUDING MAINTENANCE OF A CLEAN, SAFE, AND  
2456 HEALTHY ENVIRONMENT AND THE APPROPRIATE AND SAFE TECHNIQUES  
2457 FOR EACH ASSIGNED TASK TO BE CONDUCTED BEFORE COMPLETION OF  
2458 INITIAL TRAINING.
- 2459 (2) THE HCA SHALL PROVIDE ORIENTATION FOR ALL PERSONNEL UPON HIRE THAT  
2460 INCLUDES, BUT IS NOT LIMITED TO, HCA POLICIES AND PROCEDURES AND  
2461 EMERGENCY RESPONSE POLICIES AND EMERGENCY CONTACT NUMBERS FOR THE  
2462 HCA AND FOR THE INDIVIDUAL CONSUMER(S) ASSIGNED.
- 2463 (3) THE HCA SHALL ENSURE THAT ONGOING TRAINING OF HOMEMAKERS OCCURS AND  
2464 SHALL CONSIST OF AT LEAST FOUR (4) TRAINING TOPICS OUTLINED IN PART  
2465 7.3(C)(1) ABOVE EVERY TWELVE (12) MONTHS AFTER THE STARTING DATE OF  
2466 EMPLOYMENT OR CALENDAR YEAR AS DESIGNATED BY HCA POLICY. THE TRAINING  
2467 REQUIREMENT SHALL BE PRORATED IN ACCORDANCE WITH THE NUMBER OF MONTHS  
2468 THE EMPLOYEE WAS ACTIVELY WORKING FOR THE HCA.
- 2469 (D) HOMEMAKERS SHALL PROVIDE SERVICES IN ACCORDANCE WITH THE POLICIES AND  
2470 REQUIREMENTS OF THE HCA AS WELL AS THE SERVICE ARRANGEMENTS SPELLED OUT IN  
2471 THE SERVICE PLAN.
- 2472 (E) THE DUTIES OF A HOMEMAKER SHALL INCLUDE THE FOLLOWING:
- 2473 (1) REPORTING ANY OBSERVED ENVIRONMENTAL CONCERNS OR CHANGES IN THE  
2474 CONSUMER'S STATUS THAT MAY IMPACT THE SAFETY AND SECURITY OF THE  
2475 CONSUMER TO THE HCA.
- 2476 (2) COMPLETION OF APPROPRIATE SERVICE NOTES REGARDING SERVICE PROVISION OF  
2477 EACH VISIT, TO INCLUDE CONFIRMATION OF SERVICES PROVIDED AND THE DATE AND

Commented [BM155]: Modified from CNA training

2478 TIME IN AND OUT. SUCH CONFIRMATION SHALL ALSO BE ACCORDING TO HCA  
2479 POLICY.

2480 (F) THE DUTIES OF A HOMEMAKER MAY INCLUDE THE FOLLOWING:

2481 (1) ROUTINE LIGHT HOUSE CLEANING, MEAL PREPARATION, DISHWASHING, AND BED  
2482 MAKING. HOMEMAKERS MAY ALSO ASSIST IN TEACHING THESE TASKS TO THE  
2483 CONSUMER.

2484 (A) WHERE MEAL PREPARATION IS PROVIDED IN ACCORDANCE WITH THE  
2485 SERVICE CONTRACT, THE HOMEMAKER SHOULD RECEIVE INSTRUCTION  
2486 REGARDING ANY SPECIAL DIETS REQUIRED TO BE PREPARED.

Commented [BM156]: Language moved up from PCW tasks

2487 (2) ASSISTANCE IN COMPLETING ACTIVITIES OUTSIDE THE HOME, SUCH AS SHOPPING  
2488 AND LAUNDRY.

2489 (3) COMPANIONSHIP, INCLUDING BUT NOT LIMITED TO, SOCIAL INTERACTION,  
2490 CONVERSATION, EMOTIONAL REASSURANCE, ENCOURAGEMENT OF READING,  
2491 WRITING, AND ACTIVITIES THAT STIMULATE THE MIND.

2492 8.57.4 Personal Care Worker

2493 (A) A PERSONAL CARE WORKER MUST MEET ALL REQUIREMENTS IN PART 7.3, HOMEMAKER, IN  
2494 ADDITION TO THE SPECIFIC REQUIREMENTS FOR PERSONAL CARE WORKERS OUTLINED  
2495 BELOW, PRIOR TO PROVIDING SERVICES INDEPENDENTLY.

2496 (B) A PERSONAL CARE WORKER MUST COMPLETE TRAINING AS SPECIFIED IN PART 7.4(C),  
2497 PERSONAL CARE WORKER TRAINING, AND PASS A COMPETENCY EVALUATION AND SKILLS  
2498 VALIDATION PRIOR TO PROVIDING CARE TO A CONSUMER.

Commented [BM157]: Mimicking Homemaker language

2499 ~~(A) A personal care worker shall have completed agency training or have verified experience~~  
2500 ~~in the provision of home care tasks to consumers and passed a competency evaluation.~~

2501 ~~(B) Personal care service employees shall provide services in accordance with the policies~~  
2502 ~~and requirements of the agency as well as the service arrangements spelled out in the~~  
2503 ~~service plan.~~

2504 (C) PERSONAL CARE WORKER TRAINING

Commented [BM158]: Reorganized this section, moved up from below. Not new language.

2505 (1) INITIAL TRAINING SHALL INCLUDE THE TOPICS IDENTIFIED IN HOMEMAKER TRAINING AT  
2506 PART 7.3(C)(1), IN ADDITION TO THE FOLLOWING:

2507 (A) THE DIFFERENCES IN PERSONAL CARE, NURSE AIDE CARE, AND HEALTH CARE  
2508 IN THE HOME INCLUDING LIMITING FACTORS FOR THE PROVISION OF PERSONAL  
2509 CARE AS SPECIFIED IN PART 7.4(E) BELOW;

2510 (B) OBSERVATION, REPORTING, AND DOCUMENTATION OF CONSUMER STATUS AND  
2511 THE SERVICE(S) FURNISHED;

2512 (C) NON-MEDICAL ASSISTANCE WITH ACTIVITIES OF DAILY LIVING, INCLUDING  
2513 BATHING, SKIN CARE, HAIR CARE, NAIL CARE, MOUTH CARE, SHAVING,  
2514 DRESSING, FEEDING, ASSISTANCE WITH AMBULATION, EXERCISES AND  
2515 TRANSFERS, POSITIONING, BLADDER CARE, BOWEL CARE, AND PROTECTIVE  
2516 OVERSIGHT;

- 2517 (D) MEDICATION REMINDERS; AND
- 2518 (E) PERFORMANCE OF THE ABILITY TO ASSIST IN THE USE OF SPECIFIC ADAPTIVE
- 2519 EQUIPMENT IF THE WORKER WILL BE ASSISTING CONSUMERS WHO USE THE
- 2520 DEVICE.
- 2521 (2) THE HCA SHALL PROVIDE ORIENTATION FOR ALL PERSONNEL UPON HIRE THAT
- 2522 INCLUDES, BUT IS NOT LIMITED TO, TOPICS IDENTIFIED IN HOMEMAKER ORIENTATION AT
- 2523 7.3(C)(2) AND A DESCRIPTION OF THE SERVICES PROVIDED BY THE HCA.
- 2524 (3) ~~THE~~ HCA IS RESPONSIBLE FOR ENSURING THAT THE INDIVIDUALS WHO FURNISH
- 2525 PERSONAL CARE SERVICES ON ITS BEHALF ARE COMPETENT TO CARRY OUT ALL
- 2526 ASSIGNED TASKS IN THE CONSUMER’S PLACE OF RESIDENCE.
- 2527 (A) PRIOR TO ASSIGNMENT, THE HCA MANAGER OR SUPERVISOR SHALL CONDUCT
- 2528 A PROOF OF COMPETENCY EVALUATION INVOLVING THE TASKS LISTED IN PART
- 2529 7.4(C)(1)(c), (D), AND (E), ALONG WITH ANY OTHER TASKS THAT REQUIRE
- 2530 SPECIFIC HANDS-ON APPLICATION.
- 2531 (4) THE HCA SHALL ENSURE THAT ONGOING SUPERVISORY AND DIRECT CARE STAFF
- 2532 TRAINING OCCURS AND SHALL CONSIST OF AT LEAST SIX (6) TOPICS EVERY TWELVE (12)
- 2533 MONTHS AFTER THE STARTING DATE OF EMPLOYMENT OR CALENDAR YEAR AS
- 2534 DESIGNATED BY HCA POLICY. THE TRAINING REQUIREMENT SHALL BE PRORATED IN
- 2535 ACCORDANCE WITH THE NUMBER OF MONTHS THE EMPLOYEE WAS ACTIVELY WORKING
- 2536 FOR THE HCA. TRAINING SHALL INCLUDE, BUT IS NOT LIMITED TO, THE FOLLOWING
- 2537 ITEMS:
- 2538 (A) BEHAVIOR MANAGEMENT TECHNIQUES AND THE PROMOTION OF CONSUMER
- 2539 DIGNITY, INDEPENDENCE, SELF-DETERMINATION, PRIVACY, CHOICE AND
- 2540 RIGHTS; INCLUDING ABUSE AND NEGLECT PREVENTION AND REPORTING
- 2541 REQUIREMENTS.
- 2542 (B) DISASTER AND EMERGENCY PROCEDURES.
- 2543 (C) INFECTION CONTROL USING UNIVERSAL PRECAUTIONS.
- 2544 (D) BASIC FIRST AID AND HOME SAFETY.
- 2545 (D) THE DUTIES OF A PERSONAL CARE WORKER SHALL INCLUDE ALL DUTIES OUTLINED IN
- 2546 HOMEMAKER DUTIES AT PART 7.3(E), IN ADDITION TO THE FOLLOWING:
- 2547 (1) OBSERVATION AND MAINTENANCE OF THE HOME ENVIRONMENT IN ACCORDANCE WITH
- 2548 THE SERVICE PLAN THAT ENSURES THE SAFETY AND SECURITY OF THE CONSUMER.
- 2549 (2) REPORTING ANY OBSERVED OR STATED CHANGES IN THE CONSUMER’S PHYSICAL,
- 2550 COGNITIVE, AND/OR DEVELOPMENTAL STATUS.
- 2551 (GE) The duties of personal care worker may include ALL DUTIES OUTLINED IN HOMEMAKER
- 2552 DUTIES AT PART 7.3(F), IN ADDITION TO the following:
- 2553 (1) ~~Observation and maintenance of the home environment that ensures the safety~~
- 2554 ~~and security of the consumer.~~
- 2555 (2) ~~Assistance with household chores including cooking and meal preparation,~~
- 2556 ~~cleaning, and laundry.~~

Commented [BM159]: Existing language

Commented [BM160]: Existing language

Commented [BM161]: 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.

Commented [BM162]: Moved to required duties above



2557 ~~(3) Assistance in completing activities such as shopping, and appointments outside~~  
2558 ~~the home.~~

2559 ~~(4) Companionship including, but not limited to, social interaction, conversation,~~  
2560 ~~emotional reassurance, encouragement of reading, writing and activities that~~  
2561 ~~stimulate the mind.~~

2562 ~~(5) Assistance with NON-MEDICAL activities of daily living, personal care, and any~~  
2563 ~~other assignments as included in the service plan.~~

2564 ~~(6) Completion of appropriate service notes regarding service provision each visit.~~  
2565 ~~Documentation shall contain services provided, date and time in and out, and a~~  
2566 ~~confirmation that care was provided. Such confirmation shall be according to~~  
2567 ~~agency policy.~~

2568 (F) PERSONAL CARE WORKER TASKS

2569 (A1) ~~THE PURPOSE OF THIS PART IS~~ ~~in order to delineate the types of services that can~~  
2570 ~~be provided by a personal care worker. The following are examples of limitations~~  
2571 ~~where skilled home health care would be needed to meet higher needs of the~~  
2572 ~~consumer.~~

2573 (4A) ~~Skin care. A personal care worker may perform general skin care~~  
2574 ~~assistance. A personal care worker may perform skin care only when~~  
2575 ~~skin is unbroken, and when any chronic skin problems are not active.~~  
2576 ~~The skin care provided by a personal care worker shall be preventative~~  
2577 ~~rather than therapeutic in nature and may include the application of non-~~  
2578 ~~medicated lotions and solutions, or of lotions and solutions not requiring~~  
2579 ~~a physician's prescription. Skilled skin care includes wound care other~~  
2580 ~~than basic first aid, dressing changes, application of prescription~~  
2581 ~~medications, skilled observation, and reporting. Skilled skin care should~~  
2582 ~~be provided by an agency licensed to provide home health services.~~

2583 (i) ~~A PERSONAL CARE WORKER MAY PERFORM GENERAL SKIN CARE~~  
2584 ~~ASSISTANCE.~~

2585 (ii) ~~A PERSONAL CARE WORKER MAY PERFORM SKIN CARE ONLY WHEN~~  
2586 ~~SKIN IS UNBROKEN, AND WHEN ANY CHRONIC SKIN PROBLEMS ARE~~  
2587 ~~NOT ACTIVE.~~

2588 (iii) ~~THE SKIN CARE PROVIDED BY A PERSONAL CARE WORKER SHALL BE~~  
2589 ~~PREVENTATIVE RATHER THAN THERAPEUTIC IN NATURE AND MAY~~  
2590 ~~INCLUDE THE APPLICATION OF NON-MEDICATED LOTIONS AND~~  
2591 ~~SOLUTIONS, OR OF LOTIONS AND SOLUTIONS NOT REQUIRING A~~  
2592 ~~PHYSICIAN'S PRESCRIPTION.~~

2593 (iv) ~~SKILLED SKIN CARE INCLUDES WOUND CARE OTHER THAN BASIC FIRST~~  
2594 ~~AID, DRESSING CHANGES, APPLICATION OF PRESCRIPTION~~  
2595 ~~MEDICATIONS, SKILLED OBSERVATION, AND REPORTING. SKILLED SKIN~~  
2596 ~~CARE SHOULD BE PROVIDED BY AN HCA LICENSED TO PROVIDE~~  
2597 ~~SKILLED HOME HEALTH SERVICES.~~

2598 (2B) ~~Ambulation. A personal care worker may generally assist consumers~~  
2599 ~~with ambulation who have the ability to balance and bear weight. If the~~  
2600 ~~consumer has been determined by a health professional to be~~

Commented [BM163]: In homemaker

Commented [BM164]: In homemaker

Commented [BM165]: This entire section is not new language, but broken out into bullets below to make for easier reading.

- 2601 independent with an assistive device, a personal services worker may be  
2602 assigned to assist with ambulation.
- 2603 (I) A PERSONAL CARE WORKER MAY GENERALLY ASSIST CONSUMERS  
2604 WITH AMBULATION IF THEY HAVE THE ABILITY TO BALANCE AND BEAR  
2605 WEIGHT.
- 2606 (II) IF THE HEALTH PROFESSIONAL HAS DETERMINED THAT THE  
2607 CONSUMER IS INDEPENDENT WITH AN ASSISTIVE DEVICE, A PERSONAL  
2608 SERVICES WORKER MAY BE ASSIGNED TO ASSIST WITH AMBULATION.
- 2609 (3C) Bathing. ~~A personal care worker may assist consumers with bathing.~~  
2610 ~~When a consumer has skilled skin care needs or skilled dressings that~~  
2611 ~~will need attention before, during or after bathing, the consumer should~~  
2612 ~~be in the care of an agency licensed to provide home health services.~~
- 2613 (I) A PERSONAL CARE WORKER MAY ASSIST CONSUMERS WITH BATHING  
2614 ONLY IF THEY HAVE THE ABILITY TO BALANCE AND BEAR WEIGHT,  
2615 EXCEPT WHEN A TRANSFER INVOLVES A LIFT DEVICE AS DESCRIBED IN  
2616 PART 7.4(F)(1)(M)(IV).
- 2617 (II) WHEN A CONSUMER HAS SKILLED SKIN CARE NEEDS OR SKILLED  
2618 DRESSINGS THAT WILL NEED ATTENTION BEFORE, DURING, OR AFTER  
2619 BATHING, THE CONSUMER SHOULD BE IN THE CARE OF AN HCA  
2620 LICENSED TO PROVIDE SKILLED HOME HEALTH SERVICES FOR THOSE  
2621 NEEDS.
- 2622 (4D) Dressing. ~~A personal care worker may assist a consumer with dressing.~~  
2623 ~~This may include assistance with ordinary clothing and application of~~  
2624 ~~support stockings of the type that can be purchased without a physician's~~  
2625 ~~prescription. A personal care worker shall not assist with application of~~  
2626 ~~an ace bandage and anti-embolic or pressure stockings that can be~~  
2627 ~~purchased only with a physician's prescription.~~
- 2628 (I) A PERSONAL CARE WORKER MAY ASSIST A CONSUMER WITH  
2629 DRESSING. THIS MAY INCLUDE ASSISTANCE WITH ORDINARY CLOTHING  
2630 AND APPLICATION OF SUPPORT STOCKINGS, INCLUDING ACE  
2631 BANDAGES AND ANTI-EMBOLIC OR PRESSURE STOCKINGS THAT CAN  
2632 BE PURCHASED WITHOUT A PHYSICIAN'S PRESCRIPTION.
- 2633 (II) A PERSONAL CARE WORKER THAT ASSISTS A CONSUMER WITH  
2634 APPLICATION OF ANY SUPPORT STOCKING MUST RECEIVE TRAINING  
2635 FROM A QUALIFIED INDIVIDUAL IN THE STOCKING'S PROPER  
2636 APPLICATION. PRIOR TO APPLICATION AND ON AN ANNUAL BASIS, THE  
2637 QUALIFIED INDIVIDUAL SHALL CONDUCT A PROOF OF COMPETENCY  
2638 EVALUATION IN THE CORRECT APPLICATION OF SUPPORT STOCKINGS.
- 2639 (5E) Exercise. ~~A personal care worker may assist a consumer with exercise.~~  
2640 ~~However, this does not include assistance with a plan of exercise~~  
2641 ~~prescribed by a licensed health care professional. A worker may remind~~  
2642 ~~the consumer to perform ordered exercise program. Assistance with~~  
2643 ~~exercise that can be performed by a personal care worker is limited to~~  
2644 ~~the encouragement of normal bodily movement, as tolerated, on the part~~  
2645 ~~of the consumer and encouragement with a prescribed exercise~~

**Commented [BM166]:** Clarify our interpretation around skilled skin care in guidance

- 2646 program. A personal care worker shall not perform passive range of  
2647 motion.
- 2648 (I) A PERSONAL CARE WORKER MAY ASSIST A CONSUMER WITH  
2649 EXERCISE. HOWEVER, THIS DOES NOT INCLUDE ASSISTANCE WITH A  
2650 PLAN OF EXERCISE PRESCRIBED BY A LICENSED HEALTH CARE  
2651 PROFESSIONAL.
- 2652 (II) A PERSONAL CARE WORKER MAY REMIND THE CONSUMER TO  
2653 PERFORM ORDERED EXERCISE. ASSISTANCE WITH EXERCISE THAT  
2654 CAN BE PERFORMED BY A PERSONAL CARE WORKER IS LIMITED TO THE  
2655 ENCOURAGEMENT OF NORMAL BODILY MOVEMENT, AS TOLERATED, ON  
2656 THE PART OF THE CONSUMER AND ENCOURAGEMENT WITH A  
2657 PRESCRIBED EXERCISE PROGRAM.
- 2658 (III) A PERSONAL CARE WORKER SHALL NOT PERFORM PASSIVE RANGE OF  
2659 MOTION.
- 2660 (6F) Feeding. Assistance with feeding may generally be performed by a  
2661 personal service worker. Personal care workers can assist consumers  
2662 with feeding when the consumer can independently chew and swallow  
2663 without difficulty and be positioned upright. Unless otherwise allowed by  
2664 statute, assistance by a personal care worker does not include syringe,  
2665 tube feedings and intravenous nutrition. Whenever there is a high risk  
2666 that the consumer may choke as a result of the feeding the consumer  
2667 should be in the care of an agency licensed to provide home health  
2668 services.
- 2669 (I) ASSISTANCE WITH FEEDING MAY GENERALLY BE PERFORMED BY A  
2670 PERSONAL SERVICE WORKER.
- 2671 (II) PERSONAL CARE WORKERS CAN ASSIST CONSUMERS WITH FEEDING  
2672 WHEN THE CONSUMER CAN INDEPENDENTLY CHEW AND SWALLOW  
2673 WITHOUT DIFFICULTY AND BE POSITIONED UPRIGHT.
- 2674 (III) UNLESS OTHERWISE ALLOWED BY STATUTE, ASSISTANCE BY A  
2675 PERSONAL CARE WORKER DOES NOT INCLUDE SYRINGE, TUBE  
2676 FEEDINGS, AND INTRAVENOUS NUTRITION. WHENEVER THERE IS A  
2677 HIGH RISK THAT THE CONSUMER MAY CHOKES AS A RESULT OF THE  
2678 FEEDING, THE CONSUMER SHOULD BE IN THE CARE OF AN HCA  
2679 LICENSED TO PROVIDE SKILLED HOME HEALTH SERVICES.
- 2680 (7G) Hair care. As a part of the broader set of services provided to consumers  
2681 who are receiving personal services, personal care workers may assist  
2682 consumers with the maintenance and appearance of their hair. Hair care  
2683 within these limitations may include shampooing with non-medicated  
2684 shampoo or shampoo that does not require a physician's prescription,  
2685 drying, combing and styling of hair.
- 2686 (I) AS A PART OF THE BROADER SET OF SERVICES PROVIDED TO  
2687 CONSUMERS WHO ARE RECEIVING PERSONAL SERVICES, PERSONAL  
2688 CARE WORKERS MAY ASSIST CONSUMERS WITH THE MAINTENANCE  
2689 AND APPEARANCE OF THEIR HAIR.

- 2690  
2691  
2692
- (ii) HAIR CARE MAY INCLUDE SHAMPOOING, DRYING, COMBING, AND STYLING OF HAIR. MEDICATED SHAMPOO OR SHAMPOO THAT REQUIRES A PHYSICIAN'S PRESCRIPTION MAY NOT BE USED.
- 2693  
2694  
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2698  
2699
- (iii) OVER-THE-COUNTER MEDICATED SHAMPOOS MAY BE USED AS PART OF THE BROADER SET OF SERVICES PROVIDED TO THE CONSUMER, IF THE PERSONAL CARE WORKER HAS BEEN TRAINED BY THE AGENCY IN THE PROPER USE OF THE PRODUCT. PRIOR TO APPLICATION AND ON AN ANNUAL BASIS, A QUALIFIED INDIVIDUAL SHALL CONDUCT A PROOF OF COMPETENCY EVALUATION IN THE CORRECT USE OF THESE PRODUCTS.
- 2700  
2701  
2702  
2703  
2704
- (8H) 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.~~
- 2705  
2706
- (i) A PERSONAL CARE WORKER MAY ASSIST AND PERFORM MOUTH CARE. THIS MAY INCLUDE DENTURE CARE AND BASIC ORAL HYGIENE.
- 2707  
2708  
2709  
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- (ii) MOUTH CARE FOR CONSUMERS WHO ARE UNCONSCIOUS, HAVE DIFFICULTY SWALLOWING, OR ARE AT RISK FOR CHOKING AND ASPIRATION SHOULD BE PERFORMED BY AN HCA LICENSED TO PROVIDE SKILLED HOME HEALTH SERVICES.
- 2711  
2712  
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2715  
2716  
2717
- (9I) 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.~~
- 2718  
2719  
2720
- (i) 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.
- 2721  
2722
- (ii) ASSISTANCE BY A PERSONAL CARE WORKER SHALL NOT INCLUDE NAIL TRIMMING.
- 2723  
2724  
2725  
2726
- (iii) CONSUMERS WITH A MEDICAL CONDITION THAT MIGHT INVOLVE PERIPHERAL CIRCULATORY PROBLEMS OR LOSS OF SENSATION SHOULD BE UNDER THE CARE OF AN HCA LICENSED TO PROVIDE SKILLED HOME HEALTH SERVICES.
- 2727  
2728  
2729  
2730  
2731  
2732
- (10J) 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.~~
- 2733  
2734
- (i) A PERSONAL CARE WORKER MAY ASSIST A CONSUMER WITH POSITIONING WHEN THE CONSUMER IS ABLE TO IDENTIFY TO THE

**Commented [BM167]:** New language to make more inclusive. Also create technical guidance on cultural competency around hair care and nuances (lice shampoo)

- 2735 PERSONAL CARE STAFF, VERBALLY, NON-VERBALLY, OR THROUGH  
2736 OTHERS, WHEN THE POSITIONS NEEDS TO BE CHANGED.
- 2737 (ii) POSITIONING SHALL NOT EXCEED SIMPLE ALIGNMENT IN A BED,  
2738 WHEELCHAIR, OR OTHER FURNITURE.
- 2739 (iii) A PERSONAL CARE WORKER MAY ASSIST A SKILLED HOME HEALTH  
2740 WORKER WITH A CONSUMER'S POSITIONING WHEN ANY POSITION  
2741 CHANGE ADDRESSES SKILLED SKIN CARE CONCERNS, AS DEFINED AT  
2742 PART 7.4(F)(1)(A)(IV). A PERSONAL CARE WORKER MAY NOT BE  
2743 ASSIGNED TO OR INDEPENDENTLY PERFORM THIS FUNCTION.
- 2744 (14K) ~~Shaving. A personal care worker may assist a consumer with shaving  
2745 only with an electric or a safety razor.~~
- 2746 (i) A PERSONAL CARE WORKER MAY ASSIST A CONSUMER WITH SHAVING  
2747 ONLY WITH AN ELECTRIC OR A SAFETY RAZOR.
- 2748 (14L) ~~Toileting. A personal care worker may assist a consumer to and from the  
2749 bathroom, provide assistance with bedpans, urinals and commodes;  
2750 pericare, or changing of clothing and pads of any kind used for the care  
2751 of incontinence.~~
- 2752 (i) A PERSONAL CARE WORKER MAY ASSIST A CONSUMER TO AND FROM  
2753 THE BATHROOM, PROVIDE ASSISTANCE WITH BEDPANS, URINALS, AND  
2754 COMMODES; PERICARE, OR CHANGING OF CLOTHING AND PADS OF  
2755 ANY KIND USED FOR THE CARE OF INCONTINENCE.
- 2756 (ii) A PERSONAL CARE WORKER MAY EMPTY URINARY COLLECTION  
2757 DEVICES, SUCH AS CATHETER BAGS. IN ALL CASES, THE INSERTION  
2758 AND REMOVAL OF CATHETERS AND CARE OF EXTERNAL CATHETERS IS  
2759 CONSIDERED SKILLED CARE AND SHALL NOT BE PERFORMED BY A  
2760 PERSONAL CARE WORKER.
- 2761 (iii) A PERSONAL CARE WORKER MAY EMPTY OSTOMY BAGS AND PROVIDE  
2762 ASSISTANCE WITH OTHER CONSUMER-DIRECTED OSTOMY CARE ONLY  
2763 WHEN THERE IS NO NEED FOR SKILLED SKIN CARE OR FOR  
2764 OBSERVATION OR REPORTING TO A NURSE. A PERSONAL CARE  
2765 WORKER SHALL NOT PERFORM DIGITAL STIMULATION, INSERT  
2766 SUPPOSITORIES, OR GIVE AN ENEMA.
- 2767 (13) ~~A personal care worker may empty urinary collection devices, such as  
2768 catheter bags. In all cases, the insertion and removal of catheters and  
2769 care of external catheters is considered skilled care and shall not be  
2770 performed by a personal care worker.~~
- 2771 (14) ~~A personal care worker may empty ostomy bags and provide assistance  
2772 with other consumer-directed ostomy care only when there is no need for  
2773 skilled skin care or for observation or reporting to a nurse. A personal  
2774 care worker shall not perform digital stimulation, insert suppositories or  
2775 give an enema.~~
- 2776 (15M) ~~Transfers. A personal care worker may assist with transfers only when  
2777 the consumer has sufficient balance and strength to reliably stand and  
2778 pivot and assist with the transfer to some extent. Adaptive and safety~~

**Commented [BM168]:** (ii) and (iii) were their own bullets (below). Moved under toileting.

- 2779 equipment may be used in transfers, provided that the consumer and  
 2780 personal care worker are fully trained in the use of the equipment and  
 2781 the consumer, consumer's family member or guardian can direct the  
 2782 transfer step by step. Adaptive equipment may include, but is not limited  
 2783 to wheel chairs, tub seats and grab bars. Gait belts may be used in a  
 2784 transfer as a safety device for the personal care worker as long as the  
 2785 worker has been properly trained in its use.
- 2786 (i) A PERSONAL CARE WORKER MAY ASSIST WITH TRANSFERS ONLY  
 2787 WHEN THE CONSUMER HAS SUFFICIENT BALANCE AND STRENGTH TO  
 2788 RELIABLY STAND AND PIVOT AND ASSIST WITH THE TRANSFER TO  
 2789 SOME EXTENT.
- 2790 (ii) ADAPTIVE AND SAFETY EQUIPMENT MAY BE USED IN TRANSFERS,  
 2791 PROVIDED THAT THE CONSUMER AND PERSONAL CARE WORKER ARE  
 2792 FULLY TRAINED IN THE USE OF THE EQUIPMENT, AND THE CONSUMER,  
 2793 CONSUMER'S FAMILY MEMBER, OR GUARDIAN CAN DIRECT THE  
 2794 TRANSFER STEP BY STEP. ADAPTIVE EQUIPMENT MAY INCLUDE, BUT IS  
 2795 NOT LIMITED TO, WHEEL CHAIRS, TUB SEATS, AND GRAB BARS.
- 2796 (iii) GAIT BELTS MAY BE USED IN A TRANSFER AS A SAFETY DEVICE FOR  
 2797 THE PERSONAL CARE WORKER AS LONG AS THE WORKER HAS BEEN  
 2798 PROPERLY TRAINED IN ITS USE AND AS LONG AS THE CONSUMER IS  
 2799 ABLE TO ASSIST WITH THE TRANSFER.
- 2800 (aiv) A personal care worker shall not perform assistance with  
 2801 transfers when the consumer is unable to assist with the transfer.  
 2802 Personal care workers, with training and demonstrated  
 2803 competency, may assist a consumer in a transfer involving a lift  
 2804 device.
- 2805 (bv) A personal care worker may assist the informal caregiver with  
 2806 transferring the consumer provided the consumer is able to  
 2807 direct and assist with the transfer.
- 2808 (16N) Medication Assistance. THE FOLLOWING REQUIREMENTS APPLY TO ALL  
 2809 PRESCRIPTION AND ALL OVER-THE-COUNTER MEDICATIONS. Unless otherwise  
 2810 allowed by statute, a personal care worker may assist a consumer with  
 2811 medication only when the medications have been pre-selected by the  
 2812 consumer, a family member, a nurse, or a pharmacist, and are stored in  
 2813 containers other than the prescription bottles, such as medication  
 2814 minders. Medication minder containers shall be clearly marked as to day  
 2815 and time of dosage and reminding includes: inquiries as to whether  
 2816 medications were taken; verbal prompting to take medications; handing  
 2817 the appropriately marked medication minder container to the consumer;  
 2818 and, opening the appropriately marked medication minder container for  
 2819 the consumer if the consumer is physically unable to open the container.  
 2820 These limitations apply to all prescription and all over the counter  
 2821 medications. Any irregularities noted in the pre-selected medications  
 2822 such as medications taken too often, not often enough or not at the  
 2823 correct time as marked in the medication minder container, shall be  
 2824 reported immediately by the personal care worker to the supervisor.
- 2825 (i) UNLESS OTHERWISE ALLOWED BY STATUTE, A PERSONAL CARE  
 2826 WORKER MAY ASSIST A CONSUMER WITH MEDICATION ONLY WHEN THE  
 2827 MEDICATIONS HAVE BEEN PRE-SELECTED BY THE CONSUMER, A

- 2828 FAMILY MEMBER, A NURSE, OR A PHARMACIST, AND ARE STORED IN  
2829 CONTAINERS OTHER THAN THE PRESCRIPTION BOTTLES, SUCH AS  
2830 MEDICATION MINDERS.
- 2831 (ii) MEDICATION MINDER CONTAINERS SHALL BE CLEARLY MARKED AS TO  
2832 DAY AND TIME OF DOSAGE AND REMINDING INCLUDES: INQUIRIES AS  
2833 TO WHETHER MEDICATIONS WERE TAKEN; VERBAL PROMPTING TO  
2834 TAKE MEDICATIONS; HANDING THE APPROPRIATELY MARKED  
2835 MEDICATION MINDER CONTAINER TO THE CONSUMER; AND, OPENING  
2836 THE APPROPRIATELY MARKED MEDICATION MINDER CONTAINER FOR  
2837 THE CONSUMER IF THE CONSUMER IS PHYSICALLY UNABLE TO OPEN  
2838 THE CONTAINER.
- 2839 (iii) ANY IRREGULARITIES NOTED IN THE PRE-SELECTED MEDICATIONS  
2840 SUCH AS MEDICATIONS TAKEN TOO OFTEN, NOT OFTEN ENOUGH, OR  
2841 NOT AT THE CORRECT TIME AS MARKED IN THE MEDICATION MINDER  
2842 CONTAINER, SHALL BE REPORTED IMMEDIATELY BY THE PERSONAL  
2843 CARE WORKER TO THE SUPERVISOR.
- 2844 (170) ~~RESPIRATORY CARE~~ ~~Respiratory care is considered skilled care and shall~~  
2845 ~~not be performed by a personal care worker. Respiratory care includes~~  
2846 ~~postural drainage, cupping, adjusting oxygen flow within established~~  
2847 ~~parameters, nasal, endotracheal and tracheal suctioning.~~
- 2848 (i) ~~RESPIRATORY CARE IS CONSIDERED SKILLED CARE AND SHALL NOT BE~~  
2849 ~~PERFORMED BY A PERSONAL CARE WORKER. RESPIRATORY CARE~~  
2850 ~~INCLUDES POSTURAL DRAINAGE, CUPPING, ADJUSTING OXYGEN FLOW~~  
2851 ~~WITHIN ESTABLISHED PARAMETERS, NASAL, ENDOTRACHEAL, AND~~  
2852 ~~TRACHEAL SUCTIONING.~~
- 2853 (a) Personal care workers may temporarily remove and replace a  
2854 cannula or mask from the consumer's face for the purposes of  
2855 shaving and/or washing a consumer's face.
- 2856 (b) Personal care workers may set a consumer's oxygen flow  
2857 according to written instruction when changing tanks, provided  
2858 the personal care worker has been specifically trained and  
2859 demonstrated competency for this task.
- 2860 (18P) ~~Accompaniment. Accompanying the consumer to medical appointments,~~  
2861 ~~banking errands, basic household errands, clothes shopping, grocery~~  
2862 ~~shopping or other excursions to the extent necessary and as specified on~~  
2863 ~~the service plan may be performed by the personal care worker when all~~  
2864 ~~the care that is provided by the personal care staff in relation to the trip is~~  
2865 ~~unskilled personal care, as described in these regulations.~~
- 2866 (i) ~~ACCOMPANYING THE CONSUMER TO MEDICAL APPOINTMENTS,~~  
2867 ~~BANKING ERRANDS, BASIC HOUSEHOLD ERRANDS, CLOTHES~~  
2868 ~~SHOPPING, GROCERY SHOPPING, OR OTHER EXCURSIONS TO THE~~  
2869 ~~EXTENT NECESSARY AND AS SPECIFIED ON THE SERVICE PLAN MAY BE~~  
2870 ~~PERFORMED BY THE PERSONAL CARE WORKER WHEN ALL THE CARE~~  
2871 ~~THAT IS PROVIDED BY THE PERSONAL CARE STAFF IN RELATION TO THE~~  
2872 ~~TRIP IS UNSKILLED PERSONAL CARE, AS DESCRIBED IN THESE~~  
2873 ~~REGULATIONS.~~

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- (19Q) ~~Protective oversight. A personal care worker may provide protective oversight including stand-by assistance with any personal care task described in these regulations. When the consumer requires protective oversight to prevent wandering, the personal care worker shall have been trained in appropriate intervention and redirection techniques.~~
- 2879  
2880  
2881
- (I) ~~A PERSONAL CARE WORKER MAY PROVIDE PROTECTIVE OVERSIGHT INCLUDING STAND-BY ASSISTANCE WITH ANY PERSONAL CARE TASK DESCRIBED IN THESE REGULATIONS.~~
- 2882  
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2885
- (II) ~~WHEN THE CONSUMER REQUIRES PROTECTIVE OVERSIGHT TO PREVENT WANDERING, THE PERSONAL CARE WORKER SHALL HAVE BEEN TRAINED IN APPROPRIATE INTERVENTION AND REDIRECTION TECHNIQUES.~~
- 2886  
2887  
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2889
- (20R) ~~Respite care. A personal care worker may provide respite care in the consumer's home according to the service plan as long as the necessary provision of services during this time does not include skilled home health services as defined in section 3.29 of this chapter.~~
- 2890  
2891  
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2894
- (I) ~~A PERSONAL CARE WORKER MAY PROVIDE RESPITE CARE IN THE CONSUMER'S HOME ACCORDING TO THE SERVICE PLAN AS LONG AS THE NECESSARY PROVISION OF SERVICES DURING THIS TIME DOES NOT INCLUDE SKILLED HOME HEALTH SERVICES AS DEFINED IN PART 2.29 OF THIS CHAPTER.~~
- 2895  
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2900
- (21) ~~Housekeeping services. A personal care worker may provide housekeeping services, such as dusting, vacuuming, mopping, cleaning bathroom and kitchen areas, meal preparation, dishwashing, linen changes, laundry and shopping in accordance with the service contract. Where meal preparation is provided, the personal care worker should receive instruction regarding any special diets required to be prepared.~~
- 2901  
2902
- (B2) In addition to the exclusions prescribed in the preceding section, the agency HCA shall not allow personal care workers to:
- 2903  
2904
- (4A) ~~Perform skilled home health services as defined in section 3.29 PART 2.29 of this chapter;~~
- 2905
- (2B) Perform or provide medication set-up for a consumer; or
- 2906  
2907
- (3C) Perform other actions specifically prohibited by agency HCA policy, regulations, or law.
- 2908
- (F) ~~Supervision of a personal care worker shall:~~
- 2909  
2910
- (1) ~~Be performed by a qualified employee of the agency HCA who is in a designated supervisory capacity and available to the worker for questions at all times;~~
- 2911  
2912  
2913
- (2) ~~Include evaluation of each personal care worker providing services at least annually. The evaluation shall include observation of tasks performed and relationship with the consumer; and~~

**Commented [BM169]:** Stricken here; moved and modified in homemaker duties (Part 7.3(F)(1))

**Commented [BM170]:** Moved to 7.8 below



- 2914 (3) Provide on-site supervision at a minimum of every three (3) months and include  
 2915 an assessment of consumer satisfaction with services and the personal care  
 2916 worker's adherence to the service plan.
- 2917 (a) For a service agency that provides only Supported Living Services or  
 2918 Children's Extensive Support Services through a program approved by  
 2919 the Colorado Department of Human Services, the criteria set forth in  
 2920 paragraph F(3) shall be accomplished by compliance with 2 CCR 503-1,  
 2921 Section 16, Developmental Disabilities Services.
- 2922 8.6 Personal care worker training
- 2923 (A) All personal care staff shall complete agency orientation before independently providing  
 2924 services to consumers. Orientation shall include:
- 2925 (1) Employee duties and responsibilities;
- 2926 (2) A description of the services provided by the agency;
- 2927 (3) The differences in personal care, nurse aide care, and health care in the home  
 2928 including limiting factors for the provision of personal care;
- 2929 (4) Consumer rights including freedom from abuse or neglect, and confidentiality of  
 2930 consumer records, personal, financial, and health information;
- 2931 (5) Hand washing and infection control;
- 2932 (6) Assignment and supervision of services;
- 2933 (7) Observation, reporting, and documentation of consumer status and the service  
 2934 furnished;
- 2935 (8) Emergency response policies and emergency contact numbers for the agency  
 2936 and for the individual consumer assigned, and
- 2937 (9) Training and competency evaluation of appropriate and safe techniques in all  
 2938 personal care tasks for each assigned task to be conducted before completion of  
 2939 initial training.
- 2940 (B) Training within the first 45 days of employment shall be provided, in addition to  
 2941 orientation, which can include self-study courses with demonstration of learned concepts,  
 2942 and are applicable to the employee's responsibilities. Initial training shall include, but is  
 2943 not limited to:
- 2944 (1) Communication skills with consumers such as those who have a hearing deficit,  
 2945 dementia, or other special needs;
- 2946 (2) Appropriate training in accordance with the needs of special needs populations  
 2947 served by the agency including communication and behavior management  
 2948 techniques;
- 2949 (3) Appropriate and safe techniques in personal care tasks prior to assignment.  
 2950 Areas include bathing, skin care, hair care, nail care, mouth care, shaving,  
 2951 dressing, feeding, assistance with ambulation, exercises and transfers,

Commented [BM171]: Pared down and moved up to 7.4(C)

2952 positioning, bladder care, bowel care, medication reminding, homemaking tasks,  
2953 and protective oversight;

2954 (4) ~~Recognizing emergencies and knowledge of emergency procedures including~~  
2955 ~~basic first aid, home and fire safety;~~

2956 (5) ~~The role of, and coordination with, other community service providers; and~~

2957 (6) ~~Maintenance of a clean, safe and healthy environment, including appropriate~~  
2958 ~~cleaning techniques and sanitary meal preparation.~~

2959 **7.5 TRAINING EXEMPTIONS**

2960 (A) Initial orientation or training shall not be required under the following circumstances:

2961 (1) A returning employee **IS EXEMPT FROM INITIAL TRAINING IF THEY ARE RETURNING TO**  
2962 **THE SAME HCA WITHIN ONE (1) YEAR OF LEAVING, AND** meets all of the following  
2963 conditions:

**Commented [BM172]:** New requirement. Determined that a time frame was needed.

2964 (a) The employee completed the agency**HCA's** required training and  
2965 competency assessment at the time of initial employment,

2966 (b) The employee successfully completed the agency**HCA's** required  
2967 competency assessment at the time of rehire or reactivation,

2968 (c) The employee did not have performance issues directly related to  
2969 consumer care and services in the prior active period of employment,  
2970 and

2971 (d) All orientation, training, and personnel action documentation is retained  
2972 in the personnel files.

2973 (2) ~~An employee with proof of current healthcare related licensure or certification is~~  
2974 ~~exempt from initial training in the provision of personal care tasks if such training~~  
2975 ~~is recognized as included in the training for that health discipline. The agency~~  
2976 ~~shall provide orientation and perform a competency evaluation to ensure the~~  
2977 ~~employee is able to appropriately perform all personal care tasks.~~

**Commented [BM173]:** Moved to (3) below

2978 (32) An employee moving from one office to another in the same agency**HCA** if  
2979 previous training is documented and the offices have the same orientation and  
2980 training procedures.

2981 (A) **EVIDENCE OF COMPLETED INITIAL ORIENTATION AND TRAINING AND**  
2982 **COMPETENCY EVALUATION MUST BE MAINTAINED BY EACH SEPARATELY**  
2983 **LICENSED HCA.**

2984 (3) **A PERSONAL CARE WORKER WITH PROOF OF CURRENT HEALTHCARE RELATED**  
2985 **LICENSURE OR CERTIFICATION IS EXEMPT FROM INITIAL TRAINING IN THE PROVISION**  
2986 **OF PERSONAL CARE TASKS IF SUCH TRAINING IS RECOGNIZED AS INCLUDED IN THE**  
2987 **TRAINING FOR THAT HEALTH DISCIPLINE. THE HCA SHALL PROVIDE ORIENTATION**  
2988 **AND PERFORM A COMPETENCY EVALUATION TO ENSURE THE PERSONAL CARE**  
2989 **WORKER IS ABLE TO DIFFERENTIATE AND APPROPRIATELY PERFORM ALL PERSONAL**  
2990 **CARE WORKER TASKS.**

**Commented [BM174]:** Not new language. Relevant for personal care worker only

- 2991 (D) — The agency is responsible for ensuring that the individuals who furnish personal care
- 2992 services on its behalf are competent to carry out all assigned tasks in the consumer's
- 2993 place of residence.
  
- 2994 (1) — Prior to assignment, the agency manager or supervisor shall conduct a proof of
- 2995 competency evaluation involving the tasks listed in this subsection (D)(1), along
- 2996 with any other tasks that require specific hands-on application.
  
- 2997 (a) — Bathing,
- 2998 (b) — Skin care,
- 2999 (c) — Hair care,
- 3000 (d) — Nail care,
- 3001 (e) — Mouth care,
- 3002 (f) — Shaving,
- 3003 (g) — Dressing,
- 3004 (h) — Feeding,
- 3005 (i) — Assistance with ambulation,
- 3006 (j) — Exercise and transfers,
- 3007 (k) — Positioning,
- 3008 (l) — Bladder and bowel care, and
- 3009 (m) — Medication reminding.
  
- 3010 (2) — Performance of the ability to assist in the use of specific adaptive equipment if
- 3011 the worker will be assisting consumers who use the device.
  
- 3012 (E) — The agency shall ensure that ongoing supervisory and direct care staff training occurs
- 3013 and shall consist of at least six (6) topics applicable to the agency's services every 12
- 3014 months after the starting date of employment or calendar year as designated by agency
- 3015 policy. The training requirement shall be prorated in accordance with the number of
- 3016 months the employee was actively working for the agency. Training shall include, but is
- 3017 not limited to, the following items:
  
- 3018 (1) — Behavior management techniques and the promotion of consumer dignity,
- 3019 independence, self-determination, privacy, choice and rights; including abuse
- 3020 and neglect prevention and reporting requirements.
  
- 3021 (2) — Disaster and emergency procedures.
- 3022 (3) — Infection control using universal precautions.
- 3023 (4) — Basic first aid and home safety.
  
- 3024 (F) Training documentation

**Commented [BM175]:** Modified based on skilled care and moved to 7.6 below

- 3025 (1) ~~All training shall be documented.~~
- 3026 (a) ~~Classroom type training shall be documented with the date of the~~
- 3027 ~~training; starting and ending times; instructors and their qualifications;~~
- 3028 ~~short description of content; and staff member's signature.~~
- 3029 (b) ~~On-line or self-study training shall be documented with information as to~~
- 3030 ~~the content of the training and the entity that offered or produced the~~
- 3031 ~~training.~~

3032 7.6 TRAINING, COMPETENCY, AND SKILLS VALIDATION DOCUMENTATION

- 3033 (A) ALL TRAINING, COMPETENCY, AND SKILLS VALIDATION SHALL BE DOCUMENTED BY THE HCA.
- 3034 (1) DOCUMENTED EVIDENCE OF TRAININGS, COMPETENCY TESTING, AND SKILLS
- 3035 VALIDATION SHALL BE DOCUMENTED WITH THE DATE OF TRAINING; LENGTH OF TRAINING;
- 3036 ENTITY OR INSTRUCTOR(S) THAT OFFERED OR PRODUCED THE TRAINING; A SHORT
- 3037 DESCRIPTION OF THE CONTENT; AND STAFF MEMBER'S WRITTEN OR ELECTRONIC
- 3038 SIGNATURE OR PROOF OF ATTENDANCE.
- 3039 (2) THE HCA SHALL MAINTAIN EVIDENCE OF TRAINING, COMPETENCY TESTING, SKILLS
- 3040 VALIDATION, AND RELATED CERTIFICATES ALONG WITH PROOF OF COMPLETION IN EACH
- 3041 INDIVIDUAL'S PERSONNEL FILE.

3042 7.7 ~~SUPERVISOR~~ OF HOMEMAKERS AND PERSONAL CARE WORKERS

Commented [BM176]: Existing language

- 3043 (A) THE SUPERVISOR SHALL:
- 3044 (1) BE AT LEAST EIGHTEEN (18) YEARS OF AGE,
- 3045 (2) HAVE APPROPRIATE EXPERIENCE OR TRAINING IN THE HOME CARE INDUSTRY OR
- 3046 CLOSELY RELATED PERSONAL CARE SERVICES IN ACCORDANCE WITH HCA POLICY, AND
- 3047 (3) HAVE COMPLETED TRAINING IN THE PROVISION OF PERSONAL CARE SERVICES.

3048 7.8 SUPERVISION OF HOMEMAKERS AND PERSONAL CARE WORKERS

- 3049 (A) SUPERVISION OF A HOMEMAKER OR PERSONAL CARE WORKER ~~SHALL~~:
- 3050 (1) BE PERFORMED BY AN EMPLOYEE OF THE HCA QUALIFIED AS A SUPERVISOR UNDER
- 3051 PART 7.7, WHO IS IN A DESIGNATED SUPERVISORY CAPACITY AND AVAILABLE TO THE
- 3052 WORKER AT ALL TIMES CARE AND SERVICES ARE BEING PROVIDED;
- 3053 (2) OCCUR AT A MINIMUM OF EVERY THREE (3) MONTHS WHICH MUST INCLUDE AN
- 3054 ASSESSMENT OF CONSUMER SATISFACTION WITH SERVICES AND THE WORKER'S
- 3055 COMPETENCE AND ADHERENCE TO THE SERVICE ~~PLAN~~.
- 3056 (A) SUPERVISION SHALL BE CONDUCTED EITHER IN PERSON OR VIA
- 3057 TELEHEALTH, IN ACCORDANCE WITH TELEHEALTH SUPERVISORY VISITS AT
- 3058 PART 7.9(A)(1); AND
- 3059 (3) OCCUR ANNUALLY FOR EVALUATION OF EACH WORKER PROVIDING SERVICES IN A
- 3060 CONSUMER'S HOME AND SHALL INCLUDE OBSERVATION OF TASKS PERFORMED AND
- 3061 RELATIONSHIP WITH THE CONSUMER.

Commented [BM177]: Existing language

Commented [BM178]: Existing language modified to reflect telehealth and to mimic skilled care

3062 (B) EVIDENCE OF ALL SUPERVISORY ACTIVITIES MUST BE DOCUMENTED AND RETAINED IN THE  
3063 CONSUMER'S RECORD. DOCUMENTATION SHALL ~~INCLUDE~~:

Commented [BM179]: New language

3064 (1) THE DATE, TIME, METHOD OF DELIVERY, AND LOCATION OF THE SUPERVISORY  
3065 ACTIVITY ALONG WITH DOCUMENTATION OF PERSONS PRESENT.

3066 (2) SPECIFIC TASKS EVALUATED AND/OR OBSERVED ALONG WITH OUTCOME.

3067 (3) INFORMATION ON ANY RE-TRAINING, INSTRUCTION, OR OTHER SUPPORT PROVIDED  
3068 DURING THE SUPERVISORY ACTIVITY.

3069 (C) AN IN-PERSON SUPERVISORY VISIT IS REQUIRED TO EVALUATE CONSUMER COMPLAINTS  
3070 RELATED TO THE DELIVERY OF CARE BY STAFF WHEN SUCH CONCERNS CANNOT BE  
3071 SUCCESSFULLY ADDRESSED REMOTELY THROUGH AN INTERACTIVE AUDIOVISUAL  
3072 CONNECTION.

### 3073 7.9 TELEHEALTH SUPERVISORY VISITS

3074 (A) WITH THE EXCEPTION OF THE ANNUAL SUPERVISION REQUIREMENT IN PART 7.8(A)(3) AND  
3075 RESPONDING TO CONSUMER COMPLAINTS IN PART 7.8(C), THE HCA MAY CONDUCT  
3076 SUPERVISORY VISITS USING TELEHEALTH, SO LONG AS THE HCA CONTINUES TO ENSURE  
3077 CONSUMER CARE AND TREATMENT ARE DELIVERED IN ACCORDANCE WITH THE SERVICE PLAN  
3078 THAT ADDRESSES THE CONSUMER'S STATUS AND NEEDS.

3079 (1) THE DESIGNATED SUPERVISOR MAY EVALUATE THE DELIVERY OF CARE AND  
3080 SERVICES REQUIRED EVERY THREE (3) MONTHS AT PART 7.8(A)(2) THROUGH AN  
3081 INTERACTIVE AUDIOVISUAL CONNECTION WITH THE HOMEMAKER OR PERSONAL CARE  
3082 WORKER AND CONSUMER. THE RESULTS OF THE SUPERVISORY VISIT MUST BE  
3083 DOCUMENTED BY THE QUALIFIED EMPLOYEE.

3084 (B) ALL OTHER GENERAL REQUIREMENTS FOR SUPERVISORY VISITS, SUCH AS DOCUMENTATION AND  
3085 MEETING THE SAME STANDARD OF CARE, MUST BE ~~MET~~.

Commented [BM180]: From skilled care

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### 3087 Editor's Notes

3088 6 CCR 1011-1 has been divided into separate chapters for ease of use. Versions prior to 05/01/2009 are  
3089 located in the main section, 6 CCR 1011-1. Prior versions can be accessed from the All Versions list on  
3090 the rule's current version page. To view versions effective on or after 05/01/2009, select the desired  
3091 chapter, for example 6 CCR 1011-1 Chapter 04 or 6 CCR 1011-1 Chapter 18.

### 3092 History

3093 Chapter 26 entire rule eff. 04/30/2009.

3094 Rules 5.2(A), 5.2(f), 5.4.7(A), 5.4.8 (A) eff. 07/30/2010.

3095 Rule 5.4.8 eff. 09/30/2011.

3096 Rule 5.4 eff. 03/01/2012.

3097 Rules 5.4.4-5.4.7 eff. 03/02/2014.

3098 Rule 5.4.3 eff. 08/14/2014.

3099 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)-  
3100 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.  
3101 09/14/2014.

3102 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.

- 3103 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.
- 3104 Rule 5.1(A) eff. 01/14/2017. Rule 8.5(B)(1) repealed eff. 01/14/2017.
- 3105 Rules 5.4.6(A), 5.4.7(A), 6.10(A), 6.14(A) eff. 01/14/2020.