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Fast-Track Regulation Agency Background Document

Agency name	Virginia Department of Health
Virginia Administrative Code (VAC) citation(s)	12VAC5-381
Regulation title(s)	Regulations for the Licensure of Home Care Organizations
Action title	Amend Regulations Following Periodic Review
Date this document prepared	February 19, 2016

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

In March of 2015, the Virginia Department of Health (VDH) conducted a periodic review of 12VAC5-381, Regulations for Licensure of Home Care Organizations. As a result of the review, VDH determined it was necessary to use the regulatory process to amend these regulations. It is necessary to amend these regulations as the regulatory chapter has not been comprehensively revised in over a decade. This regulatory action is necessary to amend the regulations to correct certain provisions which are no longer accurate, clarify certain requirements, and insert additional best practices.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

DMAS- means Department of Medical Assistance Services

EDCD – means Elderly or Disabled with Consumer Direction

HCO- means Home Care Organization

OLC- means Office of Licensure and Certification of the Virginia Department of Health

VDH – means Virginia Department of Health

Statement of final agency action

Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

The amendments to the Regulations for Licensure of Home Care Organizations (12VAC5-381) were approved by the State Board of Health on March 17, 2016.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable; and 2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

The regulation is promulgated under the authority of §§ 32.1-12 and 32.1-162.12 of Chapter 5 of Title 32.1 of the Code of Virginia (Code). Section 32.1-12 grants the Board of Health the legal authority "to make, adopt, promulgate, and enforce such regulations necessary to carry out the provisions of Title 32.1 of the Code." Section 32.1-162.12 of the Code of Virginia directs the Board to promulgate regulations governing the activities and services provided by home care organizations as may be necessary to protect the public health, safety and welfare. Section 32.1-162.12 of the Code of Virginia directs the Board of Health to promulgate regulations with minimum standards for informed consent contract, the qualifications and supervision of licensed and non-licensed personnel, a complaint procedure for consumers, the provision and coordination of treatment and services provided by the organization, clinical records kept by the organization, utilization and quality control review procedures and arrangements for the continuing evaluation of the quality of care provided. Executive Order 17 (2014) requires that every existing state regulation be reviewed at least once every four years by the promulgating agency. Pursuant to that order VDH conducted a periodic review of 12VAC5-381 in March of 2015. This regulatory action is necessary in order for the regulatory chapter to be in compliance with the general principles of Executive Order 17 (2014), which requires that regulations be clearly written and easily understandable and that regulations shall be designed to achieve their intended objective in the most efficient, and cost effective manner.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

In March of 2015, VDH conducted a periodic review of 12VAC5-381, "Regulations for Licensure of Home Care Organizations." As a result of the review, VDH determined it was necessary to use the regulatory process to amend these regulations. It is necessary to amend these regulations as the regulatory chapter has not been comprehensively revised in over a decade. The regulatory action is essential to protect the health safety and welfare of citizens as 12VAC5-381 is currently out of date and contains several inaccuracies. This proposed regulatory action shall correct any inaccuracies, bring the regulatory action up to date, clarify certain requirements and insert additional best practices.

Rationale for using fast-track process

Please explain the rationale for using the fast-track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?

The provider community is aware that the current regulations are out of date and in need of correction and update. Further the provider community was consulted in the creation of this regulatory action and has provided input and feedback regarding the proposed amendments. For these reasons, VDH believes the regulatory action will be noncontroversial.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of changes" section below.

Definitions – Words which are not used in the regulatory chapter were removed from the definition section. A few corrections were made and a few necessary terms were added such as adverse event, emergency management plan, medication management, office and skilled services director.

License – Clarification that all HCOs must also obtain a business license by the State Corporation Commission and that the addition or relocation of branch offices requires the reissuance of a license.

Exemption from licensure – Clarification that all agencies must first obtain state licensure and provide services to clients before applying for national accreditation or federal certification.

Location – New section, which requires that HCOs be located in business or commercial zones. The section permits a one year grace period for each HCO to ensure compliance with this section.

License application; initial and renewal – Removal of the pre-licensure consultation language as this service is no longer provided. Clarification of the minimum filing requirements for licensure application. Other minor clarifying language.

Compliance appropriate for all types of HCOs- Repeal of this section as it is unnecessary.

Changes to or reissue of a license – Addition of the necessity for reissuance of a license in the event of addition or removal of a branch office or the addition or removal of skilled services.

Fees – Update to the fee structure due to increased costs of the program; Clarification that all fees are nonrefundable.

On-site inspection – Clarification of the requirements of the initial survey; retooling of inspection schedule; clarification of the requirement that the administrator, skilled services director or their designated alternate be available at the time of the surveyor's arrival.

Criminal records checks – Minor clarifying language.

Variations – Update of the section; clarification that variations are temporary in nature.

Violation of This Chapter or Applicable Law; Denial, Revocation, or Suspension of License- Update of the section.

Discontinuation of services – Removal of subsections which are repetitive of other sections; minor clarifying language.

Management and administration – Clarification of which changes to an organization require reissuance of a license; clarification of the posting of a license.

Administrator – Clarification of the prerequisites of an administrator and the administrator's responsibilities.

Written policies and procedures – Minor clarifying language including an update required due to legislation.

Financial controls – Addition of the requirement that the organization maintain records of a working budget throughout operations.

Personnel practices – Minor clarifying language; clarification regarding the documentation requirement of criminal record checks of employees that work in multiple locations.

Indemnity coverage – Minor clarifying language.

Contract services- Minor clarifying language.

Client rights – Addition of the requirement that each HCO have a procedure regarding a client's opportunity to offer feedback and input regarding services provided by the assigned home care attendants or any other employees or contractors of the home care organization.

Handling complaints received from clients – Minor clarifying language.

Quality improvement – Minor clarifying language.

Drop sites – Addition of the clarifying language that drop sites shall not be separately licensed.

Client record system- Addition of the requirement that informed consent and information regarding medication errors and drugs reactions must be kept within a client's record. Update that notes on the care or services provided by home attendants be incorporated into the client record within fourteen working days.

Home attendants – Update to reflect changes to the Department of Medical Assistance Services Personal Care Aide Training Curriculum.

Discharge planning – New section, which requires an organized discharge planning process to be developed, or the development supervised by, a registered nurse or a qualified social worker.

Skilled services – Removes respiratory therapy as a required service. Requires a policy and procedure to prevent the occurrence of bed sores. Other minor clarifying changes.

Medical social services – Requires maintenance of documentation of a social worker’s qualifications.

Medication administration – Minor clarifying changes.

Discharge termination – New section, which requires a discharge or termination summary to be developed, or the development supervised by, a registered nurse or qualified social worker.

Personal care services – Specifies that supervision of home attendants may be provided by a qualified licensed practical nurse. Other minor clarifying changes.

Issues

Please identify the issues associated with the proposed regulatory action, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.

The primary advantages of the regulatory action to the public are increased health and safety protections at home care organizations. The primary disadvantage to the public associated with the regulatory action is some home care organizations may need to change some of their current operating policies and procedures. This may cause a financial impact on these facilities. That financial impact might be passed on to the facilities' patients. VDH does not foresee any additional disadvantages to the public. The primary advantage to the agency and the Commonwealth is the promotion of public health and safety. There are no disadvantages associated with the proposed regulatory action in relation to the agency or the Commonwealth.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no requirements in this proposal that exceed federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

No locality will be particularly affected by the proposed regulatory action.

Regulatory flexibility analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

Section 32.1-162.12 of the Code of Virginia directs the Board to promulgate regulations governing the activities and services provided by home care organizations as may be necessary to protect the public health, safety and welfare. Section 32.1-162.12 of the Code of Virginia directs the Board of Health to promulgate regulations with minimum standards for informed consent contract, the qualifications and supervision of licensed and non-licensed personnel, a complaint procedure for consumers, the provision and coordination of treatment and services provided by the organization, clinical records kept by the organization, utilization and quality control review procedures and arrangements for the continuing evaluation of the quality of care provided. Executive Order 17 (2014) requires that every existing state regulation be reviewed at least once every four years by the promulgating agency. Pursuant to that order VDH conducted a periodic review of 12VAC5-381 in March of 2015. This regulatory action is necessary in order for the regulatory chapter to be in compliance with the general principles of Executive Order 17 (2014), which requires that regulations be clearly written and easily understandable and that regulations shall be designed to achieve their intended objective in the most efficient, and cost effective manner. The regulations are mandated by law, the review of the regulations is mandated by law and there are no viable alternatives to the proposed regulatory action to achieve the necessary regulatory changes as determined by the regulatory review.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.

Projected cost to the state to implement and enforce the proposed regulation, including: a) fund source / fund detail; and b) a delineation of one-time versus on-going expenditures	None
Projected cost of the new regulations or changes to existing regulations on localities.	None
Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.	Licensed home care organizations throughout the Commonwealth, patients served by licensed home care organizations throughout the Commonwealth
Agency’s best estimate of the number of such	There are approximately 1,200 home care

<p>entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that:</p> <p>a) is independently owned and operated and;</p> <p>b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>organizations within the Commonwealth of Virginia. Approximately 80-85% of home care organizations qualify as small businesses.</p>
<p>All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and include all costs including:</p> <p>a) the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; and</p> <p>b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</p>	<p>VDH believes the projected costs associated with the proposed regulatory changes will be minimal for most HCOs. The projected changes will require minimal additional recordkeeping and other administrative costs. There will be costs associated with the relocation of those HCOs currently located within residentially zoned areas.</p>
<p>Beneficial impact the regulation is designed to produce.</p>	<p>This regulatory action is designed to promote and ensure the health and safety of patients who receive services from home care organizations.</p>

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

Section 32.1-162.12 of the Code of Virginia directs the Board to promulgate regulations governing the activities and services provided by home care organizations as may be necessary to protect the public health, safety and welfare. Section 32.1-162.12 of the Code of Virginia directs the Board of Health to promulgate regulations with minimum standards for informed consent contract, the qualifications and supervision of licensed and non-licensed personnel, a complaint procedure for consumers, the provision and coordination of treatment and services provided by the organization, clinical records kept by the organization, utilization and quality control review procedures and arrangements for the continuing evaluation of the quality of care provided. Executive Order 17 (2014) requires that every existing state regulation be reviewed at least once every four years by the promulgating agency. Pursuant to that order VDH conducted a periodic review of 12VAC5-381 in March of 2015. This regulatory action is necessary in order for the regulatory chapter to be in compliance with the general principles of Executive Order 17 (2014), which requires that regulations be clearly written and easily understandable and that regulations shall be designed to achieve their intended objective in the most efficient, and cost effective manner. The regulations are mandated by law, the review of the regulations is mandated by law and there are no viable alternatives to the proposed regulatory action to achieve the necessary regulatory changes as determined by the regulatory review.

Public participation notice

If an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register; and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

Periodic review and small business impact review report of findings

If this fast-track is the result of a periodic review/small business impact review, use this form to report the agency's findings. Please (1) summarize all comments received during the public comment period following the publication of the Notice of Periodic Review and (2) indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable. In addition, as required by 2.2-4007.1 E and F, please include a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

Commenter	Comment	Agency response
Christy Glynn	<p>Reporting unlicensed HCO aides</p> <p>To my knowledge there is currently no avenue offered to report unlicensed home care aides, also referred to as Personal Care aides (PCA) or Nurse Aides (NAs) that have never tested with the Board of Nursing or other state governed reporting agency.</p> <p>OLC requires agencies to have a policy for reporting licensed employees, however, home care employees delivering unskilled home care support/companion/custodial services are not required to be state licensed and there should not be such requirement. Should a PCA commit a reportable offense that would be reportable if they were otherwise licensed, who should oversee this level of home care companion reporting?</p>	<p>VDH Office of Licensure and Certification (OLC) regulations have provisions regarding personnel practices (12VAC5-381-200), which include mandated reporting of abuse, neglect, and exploitation, client rights (12VAC5-381-230), which include a provision requiring the facilities policies and procedures ensure each client is free from mental and physical abuse, neglect and property exploitation, and several provisions regarding the handling of complaints (12VAC5-381-30, 12VAC5-381-100, 12VAC5-381-150, 12VAC5-381-180, 12VAC5-381-230, and 12VAC5-381-240). In addition, the regulations require that every home care organization client be provided with information regarding how to contact the State Ombudsman (12VAC5-381-240 (C)(2)). VDH OLC believes these protections address the commenter's concerns.</p>
Christy Glynn, Team Nurse, Inc.	<p>12VAC5-381-360. Personal Care Services. Clarify LPN role for Supervisory visits</p> <p>Current wording: <i>F. A registered nurse or licensed practical nurse shall be available during all hours that personal care services are</i></p>	<p>VDH OLC believes the amendment to 12VAC5-381-360 (E) provides the clarification that the commenter is looking for. That amendment is provided here for clarity.</p> <p>E. Supervision of <u>services home attendants</u> shall be provided as often as necessary as</p>

	<p><i>being provided.</i></p> <p>Comment.....Would like a clear description/role of the LPN involving supervision of home care cases with personal care aides (PCAs), nurse aides (NAs), certified nurse adies (CNAs) following the (registered nurse) RNs directed Plan of Care (POC).</p> <p>DMAS has outlined supervisory notes somewhat clarifying the LPN role with certain supervisory visits. With Licensure there needs to be clarification regarding the LPN's role with consideration to current DMAS language. This makes it less confusing since both DMAS and Licensure play daily roles with the actual delivery of services for home care throughout VA. Below is current information for DMAS.....</p> <p>DEPARTMENT OF MEDICAL ASSISTANCE</p> <p>Title of Regulation: 12VAC30-120. Waivered Services (amending 12VAC30-120-900, 12VAC30-120-920, 12VAC30-120-925, 12VAC30-120-930; adding 12VAC30-120-905, 12VAC30-120-924, 12VAC30-120-935, 12VAC30-120-945, 12VAC30-120-990, 12VAC30-120-995; repealing 12VAC30-120-910, 12VAC30-120-940 through 12VAC30-120-980). Statutory Authority: § 32.1-325 of the Code of Virginia; 42 USC § 1396 et seq. Effective Date: February 12, 2015.</p> <p>Specifically: 12VAC30-120-935. Participation standards for specific covered services.</p> <p>F. Agency-directed personal care services. The personal care provider agency shall hire or contract with and directly supervise a RN who provides ongoing supervision of all personal care aides and LPNs. LPNs may supervise, pursuant to their licenses, personal care aides based upon RN assessment of the waiver individuals' health, safety, and welfare needs.</p> <p>Comment: this is not the complete standard as there is additional information with the DMAS reg.</p>	<p>determined by the client's needs, the assessment of the registered nurse, and according to the organization's written policies not to exceed 90 120 days. Such supervision may be provided by a qualified licensed practical nurse.</p>
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	Thank you for your time with review of my comment. Any clarification or guidance you offer me is greatly appreciated if I have not reviewed all of the OLC HCO regulation to support this comment.	
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Following the amendments proposed in this regulatory action the regulation shall meet the criteria set out in Executive Order 17 (2014). The regulation is mandated by law. The Virginia Department of Health is not aware of any complaints concerning the regulation from the public. Following the amendments proposed in this regulatory action the regulation shall be written as plainly as possible. The regulation does not overlap, duplicate or conflict with federal or state law or regulation. The regulations have been evaluated in the recent periodic review as to whether technology, economic conditions or other factors have changed in the area affected by the regulation; in areas where there are changes the Virginia Department of Health has suggested amendment.

Family impact

Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

VDH does not anticipate any impact on the institution of the family and family stability.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action. If the proposed regulation is intended to replace an emergency regulation, please follow the instructions in the text following the three chart templates below.

For changes to existing regulation(s), please use the following chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
10 – Definitions		The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise: "Activities of daily living" or "ADLs" means bathing, dressing, toileting, transferring, bowel control, bladder control and eating/feeding. A person's degree of independence in performing these activities is part of determining the appropriate level of care and services. A need for assistance exists when the client is unable to complete an activity due to cognitive impairment, functional disability, physical health problems, or safety. The client's functional level is based on the client's need	The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise: "Activities of daily living" or "ADLs" means bathing, dressing, toileting, transferring, bowel control, bladder control and eating/feeding. A person's degree of independence in performing these activities is part of determining the appropriate level of care and services. A need for assistance exists when the client is unable to complete an activity due to cognitive impairment, functional disability, physical health problems, or safety. The client's functional level is based on the client's need for assistance most or all of the time to perform personal care tasks in order to live independently. "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion or any other means, to the

		<p>for assistance most or all of the time to perform personal care tasks in order to live independently.</p> <p>"Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion or any other means, to the body of a client by (i) a practitioner or by his authorized agent and under his direction or (ii) the client at the direction and in the presence of the practitioner as defined in § 54.1-3401 of the Code of Virginia.</p> <p>"Administrator" means a person designated in writing by the governing body as having the necessary authority for the day-to-day management of the organization. The administrator must be an employee of the organization. The administrator, the director of nursing, or other clinical director may be the same individual if that individual is dually qualified.</p> <p>"Available at all times during operating hours" means an individual is readily available on the premises or by telecommunications.</p> <p>"Barrier crimes" means certain offenses, specified in § 32.1-162.9:1 of the Code of Virginia, that automatically bar an individual convicted of those offenses from employment with a home care organization.</p> <p>"Blanket fidelity bond" means a bond that provides coverage that protects an organization's losses as a result of employee theft or fraud.</p> <p>"Branch office" means a geographically separate office of the home care organization that performs</p>	<p>body of a client by (i) a practitioner or by his authorized agent and under his direction or (ii) the client at the direction and in the presence of the practitioner as defined in § 54.1-3401 of the Code of Virginia.</p> <p>"Administrator" means a person designated in writing by the governing body as having the necessary authority for the day-to-day management of the organization. The administrator must be an employee of the organization. The administrator, the director of <u>nursing skilled services</u>, or other clinical director may be the same individual if that individual is dually qualified.</p> <p><u>"Adverse event" means the result of drug or health care therapy that is neither intended nor expected in normal therapeutic use and that causes significant, sometimes life-threatening conditions or consequences at some future time. Such potential future adverse outcome may require the arrangement for appropriate follow-up surveillance and perhaps other departures from the usual plan of care.</u></p> <p>"Available at all times during operating hours" means an individual is readily available on the premises or by telecommunications.</p> <p>"Barrier crimes" means certain offenses, specified in § 32.1-162.9:1 of the Code of Virginia, that automatically bar an individual convicted of those offenses from employment with a home care organization.</p> <p>"Blanket fidelity bond" means a bond that provides coverage that protects an organization's losses as a result of employee theft or fraud.</p> <p>"Branch office" means a geographically separate office of the home care organization that performs all or part of the primary functions of the home care organization on a smaller scale.</p> <p>"Chore services" means assistance with nonroutine, heavy home maintenance for persons unable to perform such tasks. Chore services include minor repair work on furniture and appliances; carrying coal, wood and water; chopping wood; removing</p>
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		<p>all or part of the primary functions of the home care organization on a smaller scale.</p> <p>"Chore services" means assistance with nonroutine, heavy home maintenance for persons unable to perform such tasks. Chore services include minor repair work on furniture and appliances; carrying coal, wood and water; chopping wood; removing snow; yard maintenance; and painting.</p> <p>"Client record" means the centralized location for documenting information about the client and the care and services provided to the client by the organization. A client record is a continuous and accurate account of care or services, whether hard copy or electronic, provided to a client, including information that has been dated and signed by the individuals who prescribed or delivered the care or service.</p> <p>"Client's residence" means the place where the individual or client makes his home such as his own apartment or house, a relative's home or an assisted living facility, but does not include a hospital, nursing facility or other extended care facility.</p> <p>"Commissioner" means the State Health Commissioner.</p> <p>"Companion services" means assisting persons unable to care for themselves without assistance. Companion services include transportation, meal preparation, shopping, light housekeeping, companionship, and household management.</p> <p>"Contract services" means services provided through</p>	<p>snow; yard maintenance; and painting.</p> <p>"Client record" means the centralized location for documenting information about the client and the care and services provided to the client by the organization. A client record is a continuous and accurate account of care or services, whether hard copy or electronic, provided to a client, including information that has been dated and signed by the individuals who prescribed or delivered the care or service.</p> <p>"Client's residence" means the place where the individual or client makes his home such as his own apartment or house, a relative's home or an assisted living facility, but does not include a hospital, nursing facility or other extended care facility.</p> <p>"Commissioner" means the State Health Commissioner.</p> <p>"Companion services" means assisting persons unable to care for themselves without assistance. Companion services include transportation, meal preparation, shopping, light housekeeping, companionship, and household management.</p> <p>"Contract services" means services provided through agreement with another agency, organization, or individual on behalf of the organization. The agreement specifies the services or personnel to be provided on behalf of the organization and the fees to provide these services or personnel.</p> <p>"Criminal record report" means the statement issued by the Central Criminal Record Exchange, Virginia Department of State Police.</p> <p>"Department" means the Virginia Department of Health.</p> <p>"Discharge or termination summary" means a final written summary filed in a closed client record of the service delivered, goals achieved and final disposition at the time of client's discharge or termination from service.</p> <p>"Dispense" means to deliver a drug to an ultimate user by or pursuant to the lawful order of a practitioner, including the prescribing and administering,</p>
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		<p>agreement with another agency, organization, or individual on behalf of the organization. The agreement specifies the services or personnel to be provided on behalf of the organization and the fees to provide these services or personnel.</p> <p>"Criminal record report" means the statement issued by the Central Criminal Record Exchange, Virginia Department of State Police.</p> <p>"Department" means the Virginia Department of Health.</p> <p>"Discharge or termination summary" means a final written summary filed in a closed client record of the service delivered, goals achieved and final disposition at the time of client's discharge or termination from service.</p> <p>"Dispense" means to deliver a drug to an ultimate user by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling or compounding necessary to prepare the substance for that delivery.</p> <p>"Drop site" means a location that HCO staff use in the performance of daily tasks such as obtaining supplies, using fax and copy machines, charting notes on care or services provided, and storing client records. These locations may also be called charting stations, workstations, or convenience sites.</p> <p>"Employee" means an individual who has the status of an employee as defined by the U.S. Internal Revenue Service.</p> <p>"Functional limitations" means the level of a client's need for assistance based on an assessment</p>	<p>packaging, labeling or compounding necessary to prepare the substance for that delivery.</p> <p>"Drop site" means a location that HCO staff use in the performance of daily tasks such as obtaining supplies, using fax and copy machines, charting notes on care or services provided, and storing client records. These locations may also be called charting stations, workstations, or convenience sites.</p> <p>"Employee" means an individual who has the status of an employee as defined by the U.S. Internal Revenue Service.</p> <p><u>"Emergency management plan" means a plan developed by the organization to mitigate the damage of potential events that could endanger the organization's ability to function.</u></p> <p>"Functional limitations" means the level of a client's need for assistance based on an assessment conducted by the supervising nurse. There are three criteria to assessing functional status: (i) the client's impairment level and need for personal assistance, (ii) the client's lack of capacity, and (iii) how the client usually performed the activity over a period of time. If a person is mentally and physically free of impairment, there is not a safety risk to the individual, or the person chooses not to complete an activity due to personal preference or choice, then that person does not need assistance.</p> <p>"Governing body" means the individual, group or governmental agency that has legal responsibility and authority over the operation of the home care organization.</p> <p>"Home attendant" means a nonlicensed individual performing skilled, pharmaceutical and personal care services, under the supervision of the appropriate health professional, to a client in the client's residence. Home attendants are also known as certified nurse aides or CNAs, home care aides, home health aides, or personal care aides.</p> <p>"Home care organization" or "HCO" or <u>"organization" means a public or private entity providing an organized</u></p>
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		<p>conducted by the supervising nurse. There are three criteria to assessing functional status: (i) the client's impairment level and need for personal assistance, (ii) the client's lack of capacity, and (iii) how the client usually performed the activity over a period of time. If a person is mentally and physically free of impairment, there is not a safety risk to the individual, or the person chooses not to complete an activity due to personal preference or choice, then that person does not need assistance.</p> <p>"Governing body" means the individual, group or governmental agency that has legal responsibility and authority over the operation of the home care organization.</p> <p>"Home attendant" means a nonlicensed individual performing skilled, pharmaceutical and personal care services, under the supervision of the appropriate health professional, to a client in the client's residence. Home attendants are also known as certified nurse aides or CNAs, home care aides, home health aides, or personal care aides.</p> <p>"Home care organization" or "HCO" means a public or private entity providing an organized program of home health, pharmaceutical or personal care services, according to § 32.1-162.1 of the Code of Virginia in the residence of a client or individual to maintain the client's health and safety in his home. A home care organization does not include any family members, relatives or friends providing caregiving services to</p>	<p>program of home health, pharmaceutical or personal care services, according to § 32.1-162.1 32.1-162.7 of the Code of Virginia in the residence of a client or individual to maintain the client's health and safety in his home. A home care organization does not include any family members, relatives or friends providing caregiving services to persons who need assistance to remain independent and in their own homes. <u>means a public or private organization, whether operated for profit or not for profit, that provides, at the residence of a patient or individual in the Commonwealth of Virginia, one or more of the following services:</u></p> <ol style="list-style-type: none"> <u>1. Home health services, including services provided by or under the direct supervision of any health care professional under a medical plan of care in a patient's residence on a visit or hourly basis to patients who have or are at risk of injury, illness, or a disabling condition and require short-term or long-term interventions;</u> <u>2. Personal care services, including assistance in personal care to include activities of daily living provided in an individual's residence on a visit or hourly basis to individuals who have or are at risk of an illness, injury or disabling condition; or</u> <u>3. Pharmaceutical services, including services provided in a patient's residence, which include the dispensing and administration of a drug or drugs, and parenteral nutritional support, associated patient instruction, and such other services as identified by the Board of Health by regulation.</u> <p>"Home health agency" means a public or private agency or organization, or part of an agency or organization, that meets the requirements for participation in Medicare under 42 CFR 440.70 (d), by providing skilled nursing services, <u>home health aide service, medical supplies, equipment and appliances,</u> and at least <u>may provide one or more other therapeutic service,</u> for example, physical, speech, or occupational therapy; <u>or</u> medical social services; or home health aide services,</p>
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		<p>persons who need assistance to remain independent and in their own homes.</p> <p>"Home health agency" means a public or private agency or organization, or part of an agency or organization, that meets the requirements for participation in Medicare under 42 CFR 440.70 (d), by providing skilled nursing services and at least one other therapeutic service, for example, physical, speech, or occupational therapy; medical social services; or home health aide services, and also meets the capitalization requirements under 42 CFR 489.28.</p> <p>"Homemaker services" means assistance to persons with the inability to perform one or more instrumental activities of daily living. Homemaker services may also include assistance with bathing areas the client cannot reach, fastening client's clothing, combing hair, brushing dentures, shaving with an electric razor, and providing stabilization to a client while walking. Homemaker services do not include feeding, bed baths, transferring, lifting, putting on braces or other supports, cutting nails or shaving with a blade.</p> <p>"Infusion therapy" means the procedures or processes that involve the administration of injectable medications to clients via the intravenous, subcutaneous, epidural, or intrathecal routes. Infusion therapy does not include oral, enteral, or topical medications.</p> <p>"Instrumental activities of daily living" means meal</p>	<p>and also meets the capitalization requirements under 42 CFR 489.28.</p> <p>"Homemaker services" means assistance to persons with the inability to perform one or more instrumental activities of daily living. Homemaker services may also include assistance with bathing areas the client cannot reach, fastening client's clothing, combing hair, brushing dentures, shaving with an electric razor, and providing stabilization to a client while walking. Homemaker services do not include feeding, bed baths, transferring, lifting, putting on braces or other supports, cutting nails or shaving with a blade.</p> <p>"Infusion therapy" means the procedures or processes that involve the administration of injectable medications to clients via the intravenous, subcutaneous, epidural, or intrathecal routes. Infusion therapy does not include oral, enteral, or topical medications.</p> <p>"Instrumental activities of daily living" means meal preparation, housekeeping/light housework, shopping for personal items, laundry, or using the telephone. A client's degree of independence in performing these activities is part of determining the appropriate level of care and services.</p> <p>"Licensed practical nurse" means a person who holds a current license issued by the Virginia Board of Nursing or a current multistate licensure privilege to practice nursing in Virginia as a licensed practical nurse.</p> <p>"Licensee" means a licensed home care provider.</p> <p>"Medical plan of care" means a written plan of services, and items needed to treat a client's medical condition, that is prescribed, signed and periodically reviewed by the client's primary care physician.</p> <p><u>"Medication management" means the monitoring of medications that a client takes to confirm that he is complying with a medication regimen, while also ensuring the client is avoiding potentially dangerous drug interactions</u></p>
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		<p>preparation, housekeeping/light housework, shopping for personal items, laundry, or using the telephone. A client's degree of independence in performing these activities is part of determining the appropriate level of care and services.</p> <p>"Licensed practical nurse" means a person who holds a current license issued by the Virginia Board of Nursing or a current multistate licensure privilege to practice nursing in Virginia as a licensed practical nurse.</p> <p>"Licensee" means a licensed home care provider.</p> <p>"Medical plan of care" means a written plan of services, and items needed to treat a client's medical condition, that is prescribed, signed and periodically reviewed by the client's primary care physician.</p> <p>"Nursing services" means client care services, including, but not limited to, the curative, restorative, or preventive aspects of nursing that are performed or supervised by a registered nurse according to a medical plan of care.</p> <p>"OLC" means the Office of Licensure and Certification of the Virginia Department of Health.</p> <p>"Operator" means any individual, partnership, association, trust, corporation, municipality, county, local government agency or any other legal or commercial entity that is responsible for the day-to-day administrative management and operation of the organization.</p> <p>"Organization" means a home care organization.</p> <p>"Person" means any individual, partnership,</p>	<p><u>and other complications.</u></p> <p>"Nursing services" means client care services, including, but not limited to, the curative, restorative, or preventive aspects of nursing that are performed or supervised by a registered nurse according to a medical plan of care.</p> <p><u>"Office" means a place where business is conducted. A home care organization office is a place where client records, employee personnel files, financial records and the organization's policies and procedures are stored.</u></p> <p>"OLC" means the Office of Licensure and Certification of the Virginia Department of Health.</p> <p>"Operator" means any individual, partnership, association, trust, corporation, municipality, county, local government agency or any other legal or commercial entity that is responsible for the day-to-day administrative management and operation of the organization.</p> <p>"Organization" means a home care organization.</p> <p>"Person" means any individual, partnership, association, trust, corporation, municipality, county, local government agency or any other legal or commercial entity that operates a home care organization.</p> <p>"Personal care services" means the provision of nonskilled services, including assistance in the activities of daily living, and may include instrumental activities of daily living, related to the needs of the client, who has or is at risk of an illness, injury or disabling condition. A need for assistance exists when the client is unable to complete an activity due to cognitive impairment, functional disability, physical health problems, or safety. The client's functional level is based on the client's need for assistance most or all of the time to perform the tasks of daily living in order to live independently.</p> <p>"Primary care physician" means a physician licensed in Virginia, according to Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1 of the Code of</p>
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		<p>association, trust, corporation, municipality, county, local government agency or any other legal or commercial entity that operates a home care organization.</p> <p>"Personal care services" means the provision of nonskilled services, including assistance in the activities of daily living, and may include instrumental activities of daily living, related to the needs of the client, who has or is at risk of an illness, injury or disabling condition. A need for assistance exists when the client is unable to complete an activity due to cognitive impairment, functional disability, physical health problems, or safety. The client's functional level is based on the client's need for assistance most or all of the time to perform the tasks of daily living in order to live independently.</p> <p>"Primary care physician" means a physician licensed in Virginia, according to Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1 of the Code of Virginia, or licensed in an adjacent state and identified by the client as having the primary responsibility in determining the delivery of the client's medical care. The responsibility of physicians contained in this chapter may be implemented by nurse practitioners or physician assistants as assigned by the supervising physician and within the parameters of professional licensing.</p> <p>"Qualified" means meeting current legal requirements of licensure, registration or certification in Virginia or having appropriate training,</p>	<p>Virginia, or licensed in an adjacent state and identified by the client as having the primary responsibility in determining the delivery of the client's medical care. The responsibility of physicians contained in this chapter may be implemented by nurse practitioners or physician assistants as assigned by the supervising physician and within the parameters of professional licensing.</p> <p>"Qualified" means meeting current legal requirements of licensure, registration or certification in Virginia or having appropriate training, including competency testing, and experience commensurate with assigned responsibilities.</p> <p>"Quality improvement" means ongoing activities designed to objectively and systematically evaluate the quality of client care and services, pursue opportunities to improve client care and services, and resolve identified problems. Quality improvement is an approach to the ongoing study and improvement of the processes of providing health care services to meet the needs of clients and others.</p> <p>"Registered nurse" means a person who holds a current license issued by the Virginia Board of Nursing or a current multistate licensure privilege to practice nursing in Virginia as a registered nurse.</p> <p>"Service area" means a clearly delineated geographic area in which the organization arranges for the provision of home care services, personal care services, or pharmaceutical services to be available and readily accessible to persons.</p> <p>"Skilled services" means the provision of the home health those services listed in 12VAC5-381-300.</p> <p>"Skilled services director" means <u>a physician or registered nurse who is an employee of the organization and responsible for overseeing the overall direction and management of skilled services. The administrator and the skilled services director may be the same individual if that individual is dually qualified.</u></p>
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		<p>including competency testing, and experience commensurate with assigned responsibilities.</p> <p>"Quality improvement" means ongoing activities designed to objectively and systematically evaluate the quality of client care and services, pursue opportunities to improve client care and services, and resolve identified problems. Quality improvement is an approach to the ongoing study and improvement of the processes of providing health care services to meet the needs of clients and others.</p> <p>"Registered nurse" means a person who holds a current license issued by the Virginia Board of Nursing or a current multistate licensure privilege to practice nursing in Virginia as a registered nurse.</p> <p>"Service area" means a clearly delineated geographic area in which the organization arranges for the provision of home care services, personal care services, or pharmaceutical services to be available and readily accessible to persons.</p> <p>"Skilled services" means the provision of the home health services listed in 12VAC5-381-300.</p> <p>"Supervision" means the ongoing process of monitoring the skills, competencies and performance of the individual supervised and providing regular, documented, face-to-face guidance and instruction.</p> <p>"Sworn disclosure statement" means a document disclosing an applicant's criminal convictions and pending</p>	<p>"Supervision" means the ongoing process of monitoring the skills, competencies and performance of the individual supervised and providing regular, documented, face-to-face guidance and instruction.</p> <p>"Sworn disclosure statement" means a document disclosing an applicant's criminal convictions and pending criminal charges occurring in Virginia or any other state.</p> <p>"Third-party crime insurance" means insurance coverage that protects an organization's losses as a result of employee theft or fraud.</p> <p>Intent: Removal of unnecessary terms, including those which are not used within the regulatory chapter or the definition is used within the regulatory chapter. Insertion of new terms which will clarify certain provisions of the regulatory chapter.</p> <p>Likely impact: Greater clarity of the regulatory chapter and less burdensome regulations.</p>
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		<p>criminal charges occurring in Virginia or any other state. "Third-party crime insurance" means insurance coverage that protects an organization's losses as a result of employee theft or fraud.</p>	
<p>20 – License</p>		<p>A. A license to operate a home care organization is issued to a person. However, no license shall be issued to a person who has been sanctioned pursuant to 42 USC § 1320a-7b. Persons planning to seek federal certification or national accreditation pursuant to § 32.1-162.8 of the Code of Virginia must first obtain state licensure. B. The commissioner shall issue or renew a license to establish or operate a home care organization if the commissioner finds that the home care organization is in compliance with the law and this regulation. C. The commissioner may issue a license to a home care organization authorizing the licensee to provide services at one or more branch offices serving portions of the total geographic area served by the licensee, provided each branch office operates under the supervision and administrative control of the licensee. The address of each branch office at which services are provided by the licensee shall be included on any license issued to the licensee. D. Every home care organization shall be designated by an appropriate name. The name shall not be changed without first notifying the OLC. E. Licenses shall not be transferred or assigned.</p>	<p>A. A license to operate a home care organization is issued to a person <u>by the department. Such license shall be in addition to any business license required by the State Corporation Commission or by any Virginia locality.</u> However, no <u>No</u> license shall be issued to a person who has been sanctioned pursuant to 42 USC § 1320a-7b. Persons planning to seek federal certification or national accreditation <u>exemption from licensure</u> pursuant to § 32.1-162.8 of the Code of Virginia must first obtain state licensure. B. The commissioner shall issue or renew a license to establish or operate a home care organization if the commissioner finds that the home care organization is in compliance with the law and this regulation. C. The commissioner may issue a license to a home care organization <u>person</u> authorizing the licensee to provide services at one or more branch offices serving portions of the total geographic area served by the licensee, provided each branch office operates under the supervision and administrative control of the licensee. The address of each branch office at which services are provided by the licensee shall be included on any license issued to the licensee. <u>The addition or change in location of a branch office shall require a survey of the new branch location and the reissuance of the organization's license.</u> D. Every home care organization shall be designated by an appropriate name. The name shall not be changed without first notifying the OLC. E. Licenses shall not be transferred or assigned. F. Any person establishing, conducting, maintaining, or operating a home care</p>

		<p>F. Any person establishing, conducting, maintaining, or operating a home care organization without a license shall be guilty of a Class 6 felony according to §32.1-162.15 of the Code of Virginia.</p>	<p>organization without a license shall be guilty of a Class 6 felony according to § 32.1-162.15 of the Code of Virginia.</p> <p><u>G. Any person establishing, conducting, maintaining, or operating a home care organization shall obtain the required business license(s) from the State Corporation Commission and if required by any Virginia locality.</u></p> <p>Intent: Clarification that each home care organization requires a business license by the State Corporation Commission in addition to the license acquired by the Virginia Department of Health. Clarification that the addition or change in location of branch offices requires reissuance of a license.</p> <p>Likely impact: Greater clarity of the regulations.</p>
<p>30 – Exemption from licensure</p>		<p>A. This chapter is not applicable to those individuals and home care organizations listed in § 32.1-162.8 of the Code of Virginia. Organizations planning to seek federal certification as a home health agency or national accreditation must first obtain state licensure and provide services to clients before applying for national accreditation or federal certification.</p> <p>In addition, this chapter is not applicable to those providers of only homemaker, chore or companion services as defined in 12VAC5-381-10.</p> <p>B. A licensed organization requesting exemption must file a written request and pay the required fee stated in 12VAC5-381-70 D.</p> <p>C. The home care organization shall be notified in writing if the exemption from licensure has been granted. The basis for the exemption approval will be stated and the organization will be advised to contact the</p>	<p>A. This chapter is not applicable to those individuals and home care organizations listed in § 32.1-162.8 of the Code of Virginia. Organizations planning to seek federal certification as a home health agency or national accreditation must first obtain state licensure and provide services to clients before applying for national accreditation or federal certification. In addition, this chapter is not applicable to those providers of only homemaker, chore or companion services as defined in 12VAC5-381-10.</p> <p>B. <u>Organizations planning to seek federal certification as a home health agency or national accreditation must first obtain state licensure and provide services to clients before applying for national accreditation or federal certification. Upon receiving national accreditation or federal certification, an organization may be exempted from maintaining a state license.</u> A licensed organization requesting this exemption must file a written request and pay the required fee stated in 12VAC5-381-70 (D).</p> <p>C. The home care organization shall be notified in writing if the exemption from licensure listed in 12VAC5-381-30 (B) has been granted. The basis for the exemption approval <u>decision</u> will be</p>

		<p>OLC to request licensure should it no longer meet the requirement for exemption. D. Exempted organizations are subject to complaint investigations in keeping with state law.</p>	<p>stated and the organization willshall be advised to contact the OLC to request licensure should it no longer meet the requirement for exemption. D. Exempted organizations <u>Organizations exempted from licensure under 12VAC5-381-30 (B) are subject to complaint investigations in keeping with state law. Should a complaint investigation prove an exempted organization's noncompliance with state regulations, the OLC shall notify the authority responsible for the organization's accreditation or certification.</u> Intent: Clarify the requirements of licensure exemption in the case of federal certification. Likely impact: Greater clarity of the regulations.</p>
<p>35 – Location</p>		<p>N/A</p>	<p><u>The offices of a home care organization shall be located in a building that is zoned for business or commercial use. Offices shall not be located in residentially zoned areas.</u> <u>Entities licensed as of the effective date of this section with offices located within residentially zoned areas shall have one year to come into compliance with this section.</u> Intent: Some home care organizations are currently operated out of personal residences. This creates a number of concerns regarding the safety of patient records and accessibility of the office for patients or family members. Provision of a one year grace period to come into compliance with this new requirement. Likely impact: Greater safety of patient records and providing greater accessibility to patients. Some facilities may be required to relocate.</p>
<p>40 – License application; initial and renewal.</p>		<p>A. The OLC provides prelicensure consultation and technical assistance regarding the licensure process. The purpose of</p>	<p>A. The OLC provides prelicensure consultation and technical assistance regarding the licensure process. The purpose of such consultation is to explain the regulation and the survey</p>

		<p>such consultation is to explain the regulation and the survey process. Prelicensure consultations are arranged after a completed initial application is on file with the OLC.</p> <p>B. Licensure applications are obtained from the OLC. The OLC shall consider an application complete when all requested information and the appropriate fee, stated in 12VAC5-381-70, is submitted. If the OLC finds the application incomplete, the applicant will be notified in writing.</p> <p>C. The activities and services of each applicant and licensee shall be subject to an inspection by the OLC to determine if the organization is in compliance with the provisions of this chapter and state law.</p> <p>D. A completed application for initial licensure must be submitted at least 60 days prior to the organization's planned opening date to allow the OLC time to process the application. An incomplete application shall become inactive six months after it is received by the OLC. Applicants must then reapply for licensure with a completed application and application fee. An application for a license may be withdrawn at any time.</p> <p>E. Licenses are renewed annually. The OLC shall make renewal applications available at least 60 days prior to the expiration date of the current license.</p> <p>F. It is the home care organization's responsibility to complete and return a renewal application to assure timely processing. Should a current license expire before a new license</p>	<p>process. Prelicensure consultations are arranged after a completed initial application is on file with the OLC. <u>Licensure applications can be found on the OLC's website.</u></p> <p>B. Licensure applications are obtained from the OLC. The OLC shall consider an application complete when all requested information and the appropriate fee, stated in 12VAC5-381-70, is submitted. If the OLC finds the application incomplete, the applicant will be notified in writing. <u>Applicants for initial licensure shall at a minimum file the following documentation in order for an application to be considered complete:</u></p> <ol style="list-style-type: none"> <u>1. An application obtained from the OLC;</u> <u>2. The initial licensure fee of \$600;</u> <u>3. The required business license(s) from the State Corporation Commission and the appropriate Virginia locality;</u> <u>4. A list of the governing body members and copies of the organizing documents, including the Board meeting minutes showing appointment of the administrator;</u> <u>5. Evidence of the administrator's qualifications;</u> <u>6. Evidence of indemnity coverage;</u> <u>7. The organization's client rights policies and procedures;</u> <u>8. Job descriptions of the administrator, skilled services director and financial manager;</u> <u>9. A copy of the organization's business plan, and working budget; and</u> <u>10. Evidence of the financial controls required by 12VAC5-381-190.</u> <p><u>The OLC may request additional documentation before considering an initial licensure application complete. The applicant shall submit all information required by OLC.</u></p> <p>C. The activities and services of each applicant and licensee shall be subject to an inspection by the OLC to determine if the organization is in</p>
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		<p>is issued, the current license shall remain in effect provided a complete and accurate application was filed on time.</p>	<p>compliance with the provisions of this chapter and state law. <u>Applicants for initial licensure shall be notified of the time and date of the initial survey.</u></p> <p>D. A completed application for initial licensure must shall be submitted at least 60 days prior to the organization's planned opening date to allow the OLC time to process the application. <u>If the OLC finds the application incomplete, the applicant shall be notified in writing.</u> An incomplete application shall become inactive six months <u>30 days</u> after it is received by the OLC the <u>the OLC's written notification.</u> <u>Applicants In order to become licensed, applicants with an inactive application must then shall</u> reapply for licensure with a completed application and application fee. An application for a license may be withdrawn at any time.</p> <p>E. Licenses are renewed annually. The OLC shall make <u>Annual renewal applications available shall be submitted by the organization</u> at least 60 days prior to the expiration date of the current license.</p> <p>F. <u>Providers failing to submit an acceptable plan of correction as required in 12VAC5-381-80 and 12VAC5-381-100 shall not be eligible for license renewal. Failure to submit a plan of correction shall be grounds for denial, suspension, or revocation of the organization's license in accordance with in 12VAC5-381-130.</u></p> <p>FG. It is the home care organization's responsibility to complete and return a renewal application to assure timely processing. Should a current license expire before a new license is issued, the current license shall remain in effect provided a complete and accurate application was filed on time.</p> <p>Intent: Removal of the language regarding precensure consultation as VDH OLC no longer has the resources to provide this service. Clarification of the necessary minimum filing requirements in order for an application to be considered complete. Clarification that providers who have not provided an acceptable plan of correction are</p>
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			<p>not eligible for license renewal.</p> <p>Likely impact: Greater clarity of the regulations.</p>
<p>50 – Compliance Appropriate for All Types of Hcos.</p>		<p>All organizations shall be in compliance with Part I (12VAC5-381-10 et seq.) and Part II (12VAC5-381-150 et seq.) of this chapter. In addition, organizations shall be in compliance with Part III (12VAC5-381-300 et seq.), Part IV (12VAC5-381-350), or Part V (12VAC5-381-360 et seq.) of this chapter as applicable to the services provided by the organization.</p>	<p>12VAC5-381-50. Compliance appropriate for all types of HCOs. (Repealed.)</p> <p>All organizations shall be in compliance with Part I (12VAC5-381-10 et seq.) and Part II (12VAC5-381-150 et seq.) of this chapter. In addition, organizations shall be in compliance with Part III (12VAC5-381-300 et seq.), Part IV (12VAC5-381-350), or Part V (12VAC5-381-360 et seq.) of this chapter as applicable to the services provided by the organization.</p> <p>Intent: Repeal an unnecessary section.</p> <p>Likely impact: Less burdensome regulations.</p>
<p>60 – Changes to or Reissue of a License</p>		<p>A. It is the responsibility of the organization's governing body to maintain a current and accurate license. Licenses that are misplaced or lost must be replaced.</p> <p>B. An organization shall give written notification 30 working days in advance of any proposed changes that may require the reissuance of a license. Notices shall be sent to the attention of the director of the OLC. The following changes require the reissuance of a license and payment of a fee:</p> <ol style="list-style-type: none"> 1. Operator; 2. Organization name; or 3. Address. <p>C. The OLC will evaluate written information about any planned changes in operation that affect the terms of the license or the continuing eligibility for a license. A licensing representative may inspect the organization during the process of evaluating a proposed change.</p> <p>D. The organization will be</p>	<p>A. It is the responsibility of the organization's governing body to maintain a current and accurate license. Licenses that are misplaced or lost must be replaced <u>reissued</u>.</p> <p>B. An organization shall give written notification 30 working days in advance of any proposed changes <u>prior to changes that may require the reissuance of a license</u>. Notices shall be sent to the attention of the director of the OLC.</p> <p>The following changes require the reissuance of a license and payment of a fee:</p> <ol style="list-style-type: none"> 1. Operator; 2. Organization name; or 3. Address;_i 4. <u>Addition or removal of a branch office; or</u> 5. <u>Addition or removal of skilled services.</u> <p>C. The OLC will <u>shall</u> evaluate written information about any planned changes in operation that affect the terms of the license or the continuing eligibility for a license. A licensing representative may inspect the organization during the process of evaluating a proposed change.</p> <p>D. The organization will <u>shall</u> be</p>

		<p>notified in writing whether a new application is needed.</p>	<p>notified in writing whether a new application is needed.</p> <p>Intent: Clarify that when a facility adds or removes branch offices or skilled services the facility's license must be reissued.</p> <p>Likely impact: Greater clarity of the regulations.</p>
70- Fees		<p>A. The OLC shall collect a fee of \$500 for each initial and renewal license application. Fees shall accompany the licensure application and are not refundable.</p> <p>B. An additional late fee of \$50 shall be collected for an organization's failure to file a renewal application by the date specified.</p> <p>C. A processing fee of \$250 shall be collected for each reissuance or replacement of a license and shall accompany the written request for reissuance or replacement.</p> <p>D. A one time processing fee of \$75 for exemption from licensure shall accompany the written exemption request.</p>	<p>A. The OLC shall collect a fee of \$500 <u>\$600</u> for each initial and renewal license application. Fees shall accompany the licensure application and are not refundable.</p> <p>B. An additional late fee of \$50 <u>\$100</u> shall be collected for an organization's failure to file a renewal application by the date specified.</p> <p>C. A processing fee of \$250 <u>\$300</u> shall be collected for each reissuance or replacement of a license and shall accompany the written request for reissuance or replacement.</p> <p>D. A one-time processing fee of \$75 <u>\$125</u> for exemption from licensure shall accompany the written exemption request.</p> <p>E. <u>All fees shall be nonrefundable.</u></p> <p>Intent: Amend the fees to more accurately reflect the cost of the licensure program. Clarify that fees are nonrefundable.</p> <p>Likely impact: Slight financial impact on the facilities.</p>
80- On-site inspections.		<p>A. An OLC representative shall make periodic unannounced on-site inspections of each home care organization as necessary but not less often than biennially. The organization shall be responsible for correcting any deficiencies found during any on-site inspection. Compliance with all standards will be determined by the OLC according to applicable law.</p> <p>B. The home care organization shall make</p>	<p><u>A. Applicants for initial licensure shall be notified of the time and date of the initial survey. Failure to be fully prepared may result in the cancellation of the initial survey. In the event of the cancellation of the initial survey, the applicant shall wait 120 days before reapplying for an initial license. An applicant reapplying for licensure shall be required to submit all elements in 12VAC5-381-40 (B).</u></p> <p>A. B. An OLC representative shall make periodic unannounced on-site inspections of each home care organization as necessary but not less often than biennially <u>triennially</u>. The organization shall be responsible for</p>

		<p>available to the OLC's representative any necessary records and shall allow access to interview the agents, employees, contractors, and any person under the organization's control, direction or supervision.</p> <p>C. After the on-site inspection, the OLC's representative shall discuss the findings of the inspection with the administrator or his designee.</p> <p>D. The administrator shall submit, within 15 working days of receipt of the inspection report, an acceptable plan for correcting any deficiencies found. The plan of correction shall contain:</p> <ol style="list-style-type: none"> 1. A description of the corrective action or actions to be taken and the personnel to implement the corrective action; 2. The expected correction date; 3. A description of the measures implemented to prevent a recurrence of the violation; and 4. The signature of the person responsible for the validity of the report. <p>E. The administrator will be notified whenever any item in the plan of correction is determined to be unacceptable.</p> <p>F. The administrator shall be responsible for assuring the plan of correction is implemented and monitored so that compliance is maintained.</p> <p>G. Completion of corrective actions shall not exceed 45 working days from the last day of the inspection.</p>	<p>correcting any deficiencies found during any on-site inspection. Compliance with all standards willshall be determined by the OLC according to applicable law.</p> <p>B. C. The home care organization shall make available to the OLC's representative any necessary records and shall allow access to interview the agents, employees, contractors, and any person under the organization's control, direction or supervision.</p> <p><u>D. If the OLC's representative arrives on the premises to conduct a survey and the administrator, the skilled services director, or a person authorized to give access to client records is not available on the premises, such person or the designated alternate shall be available on the premises within one hour of the surveyor's arrival. A list of current clients shall be provided to the surveyor within two hours of arrival, if requested. Failure to be available shall be grounds for penalties in accordance with § 32.1-27 of the Code of Virginia and denial, suspension, or revocation of the facility's license in accordance with 12VAC5-381-130.</u></p> <p>C. E. After the on-site inspection, the OLC's representative shall discuss the findings of the inspection with the administrator or his designee.</p> <p>D. F. The administrator shall submit, within 15 working days of receipt of the inspection report, an acceptable plan for correcting any deficiencies found. The plan of correction shall contain:</p> <ol style="list-style-type: none"> 1. A description of the corrective action or actions to be taken and the personnel to implement the corrective action; 2. The expected correction date; 3. A description of the measures implemented to prevent a recurrence of the violation; and 4. The signature of the person responsible for the validity of the report. <p>E. G. The administrator will be notified whenever any item in the plan of correction is determined to be</p>
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			<p>unacceptable.</p> <p>F. <u>H.</u> The administrator shall be responsible for assuring the plan of correction is implemented and monitored so that compliance is maintained.</p> <p>G. <u>I.</u> Completion of corrective actions shall not exceed 45 working days from the <u>last day of the inspection date the inspection report is received by the administrator as demonstrated by certified mail.</u></p> <p>Intent: Clarify the requirements of initial surveys. Clarify the repercussions should a facility be unprepared for an inspection. Clarify that inspections shall occur triennially.</p> <p>Likely impact: Greater clarity of the regulations. VDH OLC no longer has the resources to conduct inspections on a biennial basis therefore VDH is amending the regulation to reflect that inspections will occur on a triennial basis.</p>
<p>100 – Complaint investigations conducted by the OLC</p>		<p>A. The OLC has the responsibility to investigate any complaints regarding alleged violations of this chapter and applicable law.</p> <p>B. Complaints may be received in writing or orally and may be anonymous.</p> <p>C. When the investigation is complete, the licensee and the complainant, if known, will be notified of the findings of the investigation.</p> <p>D. As applicable, the administrator shall submit, within 15 working days of receipt of the complaint report, an acceptable plan of correction for any deficiencies found during a complaint investigation. The plan of correction shall contain:</p> <ol style="list-style-type: none"> 1. A description of the corrective action or actions to be taken and the personnel to implement the corrective action; 	<p>A. The OLC has the responsibility to investigate any complaints regarding alleged violations of this chapter and applicable law.</p> <p>B. Complaints may be received in writing or orally and may be anonymous.</p> <p>C. When the investigation is complete, the licensee and the complainant, if known, will be notified of the findings of the investigation.</p> <p>D. As applicable, the administrator shall submit, within 15 working days of receipt of the complaint report, an acceptable plan of correction for any deficiencies found during a complaint investigation. The plan of correction shall contain:</p> <ol style="list-style-type: none"> 1. A description of the corrective action or actions to be taken and the personnel to implement the corrective action; 2. The expected correction date; 3. A description of the measures implemented to prevent a recurrence of the violation; and 4. The signature of the person

		<p>2. The expected correction date; 3. A description of the measures implemented to prevent a recurrence of the violation; and 4. The signature of the person responsible for the validity of the report. E. The administrator will be notified in writing whenever any item in the plan of correction is determined to be unacceptable. F. The administrator shall be responsible for assuring the plan of correction is implemented and monitored so that compliance is maintained.</p>	<p>responsible for the validity of the report. E. The administrator will shall be notified in writing whenever any item in the plan of correction is determined to be unacceptable. F. The administrator shall be responsible for assuring the plan of correction is implemented and monitored so that compliance is maintained. Intent: Slight technical amendment. Likely impact: None</p>
<p>110- Criminal Records Checks.</p>		<p>A. Section 32.1-162.9:1 of the Code of Virginia requires home care providers, as defined in § 32.1-162.7 of the Code of Virginia, to obtain a criminal record report on applicants for compensated employment from the Virginia Department of State Police. Section 32.1-162.9:1 of the Code of Virginia also requires that all applicants for employment in home care organizations provide a sworn disclosure statement regarding their criminal history. B. The criminal record report shall be obtained within 30 days of employment. It shall be the responsibility of the organization to ensure that its employees have not been convicted of any of the barrier crimes listed in § 32.1-162.9:1 of the Code of Virginia. C. The organization shall not accept a criminal record report dated more than 90 days prior to the date of employment. D. Only the original criminal record report shall be accepted. An exception is</p>	<p>A. Section 32.1-162.9:1 of the Code of Virginia requires home care providers <u>organizations</u>, as defined in § 32.1-162.7 of the Code of Virginia, to obtain a criminal record report on applicants for compensated employment from the Virginia Department of State Police. Section 32.1-162.9:1 of the Code of Virginia also requires that all <u>All</u> applicants for employment in home care organizations <u>shall</u> provide a sworn disclosure statement regarding their <u>past and pending</u> criminal history. <u>The sworn disclosure statement shall be stored with the criminal record report within the employee's personnel file.</u> B. The criminal record report shall be obtained within 30 days of employment. It shall be the responsibility of the organization to ensure that its employees have not been convicted of any of the barrier crimes listed in § 32.1-162.9:1 of the Code of Virginia. C. The organization shall not accept a criminal record report dated more than 90 days prior to the date of employment. D. Only the original criminal record report shall be accepted. An exception is permitted for organizations using temporary staffing agencies for the provision of substitute staff. The organization shall obtain a letter from</p>

		<p>permitted for organizations using temporary staffing agencies for the provision of substitute staff. The organization shall obtain a letter from the temporary staffing agency containing the following information:</p> <ol style="list-style-type: none"> 1. The name of the substitute staffing person; 2. The date of employment by the temporary staffing agency; and 3. A statement verifying that the criminal record report has been obtained within 30 days of employment, is on file at the temporary staffing agency, and does not contain any barrier crimes listed in § 32.1-162.9:1 of the Code of Virginia. <p>E. No employee shall be permitted to work in a position that involves direct contact with a patient until an original criminal record report has been received by the home care organization or temporary staffing agency, unless such person works under the direct supervision of another employee for whom a background check has been completed in accordance with subsection B of this section.</p> <p>F. A criminal record report remains valid as long as the employee remains in continuous service with the same organization.</p> <p>G. A new criminal record report and sworn statement shall be required when an individual terminates employment at one home care organization and begins work at another home care organization. The following exceptions are permitted:</p> <ol style="list-style-type: none"> 1. When an employee transfers within 30 days to an organization owned and 	<p>the temporary staffing agency containing the following information:</p> <ol style="list-style-type: none"> 1. The name of the substitute staffing person; 2. The date of employment by the temporary staffing agency; and 3. A <u>signed</u> statement verifying that the criminal record report has been obtained within 30 days of employment, is on file at the temporary staffing agency, and does not contain any barrier crimes listed in § 32.1-162.9:1 of the Code of Virginia. <p>E. No employee shall be permitted to work in a position that involves direct contact with a patientclient until an original criminal record report has been received by the home care organization or temporary staffing agency, unless such person works under the direct supervision of another employee for whom a background check has been completed in accordance with subsection B of this section.</p> <p>F. A criminal record report remains valid as long as the employee remains in continuous service with the same organization.</p> <p>G. A new criminal record report and sworn statement shall be required when an individual terminates employment at one home care organization and begins work at another home care organization. The following exceptions are permitted:</p> <ol style="list-style-type: none"> 1. When an employee transfers within 30 days to an organization owned and operated by the same entity. The employee's file shall contain a statement that the original criminal record report has been transferred or forwarded to the new work location. 2. When an individual takes a leave of absence, the criminal record report and sworn statement will remain valid as long as the period of separation does not exceed six consecutive months. If six consecutive months have passed, a new criminal record report and sworn disclosure statement are
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		<p>operated by the same entity. The employee's file shall contain a statement that the original criminal record report has been transferred or forwarded to the new work location.</p> <p>2. When an individual takes a leave of absence, the criminal record report and sworn statement will remain valid as long as the period of separation does not exceed six consecutive months. If six consecutive months have passed, a new criminal record report and sworn disclosure statement are required.</p> <p>H. A sworn disclosure statement shall be completed by all applicants for employment. The sworn disclosure statement shall be attached to and filed with the criminal record report.</p> <p>I. Any applicant denied employment because of convictions appearing on his criminal record report shall be provided a copy of the report by the hiring organization.</p> <p>J. All criminal record reports shall be confidential and maintained in locked files accessible only to the administrator or designee.</p> <p>K. Further dissemination of the criminal record report and sworn disclosure statement information is prohibited other than to the commissioner's representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination.</p>	<p>required.</p> <p>H. A sworn disclosure statement shall be completed by all applicants for employment. The sworn disclosure statement shall be attached to and filed with the criminal record report.</p> <p>H. Any applicant denied employment because of convictions appearing on his criminal record report shall be provided a copy of the report by the hiring organization.</p> <p>J. All criminal record reports <u>and sworn disclosure statements</u> shall be confidential and maintained in locked files accessible only to the administrator or designee.</p> <p>K. Further dissemination of the criminal record report and sworn disclosure statement information is prohibited other than to the commissioner's representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination.</p> <p>Intent: Slight technical amendments and rearrangement of the section. Likely impact: None.</p>
<p>120-Variences</p>		<p>A. The OLC can authorize variances only to its own licensing regulations, not to regulations of another agency or to any requirements in federal,</p>	<p>A. The OLC can authorize variances only to its own licensing regulations, not to regulations of another agency or to any requirements in federal, state, or local laws.</p>

	<p>state, or local laws.</p> <p>B. A home care organization may request a variance to a particular regulation or requirement contained in this chapter when the standard or requirement poses a special hardship and when a variance to it would not endanger the safety or well-being of clients. The request for a variance must describe how compliance with the current regulation is economically burdensome and constitutes a special hardship to the home care organization and to the clients it serves. When applicable, the request should include proposed alternatives to meet the purpose of the requirements that will ensure the protection and well-being of clients. At no time shall a variance approved for one individual be extended to general applicability. The home care organization may at any time withdraw a request for a variance.</p> <p>C. The OLC shall have the authority to waive, either temporarily or permanently, the enforcement of one or more of these regulations provided safety, client care and services are not adversely affected.</p> <p>D. The OLC may rescind or modify a variance if (i) conditions change; (ii) additional information becomes known that alters the basis for the original decision; (iii) the organization fails to meet any conditions attached to the variance; or (iv) results of the variance jeopardize the safety, comfort, or well-being of clients.</p> <p>E. Consideration of a variance is initiated when a written request is submitted</p>	<p>B. A home care organization may request a variance to a particular regulation or requirement contained in this chapter when the standard or requirement poses a special hardship and when a variance to it would not endanger the safety or well-being of clients. The request for a variance must describe how compliance with the current regulation is economically burdensome and constitutes a special hardship to the home care organization and to the clients it serves. When applicable, the request should include proposed alternatives to meet the purpose of the requirements that will ensure the protection and well-being of clients. At no time shall a variance approved for one individual be extended to general applicability. The home care organization may at any time withdraw a request for a variance.</p> <p>C. The OLC shall have the authority to waive, either temporarily or permanently, the enforcement of one or more of these regulations provided safety, client care and services are not adversely affected.</p> <p>D. The OLC may rescind or modify a variance if (i) conditions change; (ii) additional information becomes known that alters the basis for the original decision; (iii) the organization fails to meet any conditions attached to the variance; or (iv) results of the variance jeopardize the safety, comfort, or well-being of clients.</p> <p>E. Consideration of a variance is initiated when a written request is submitted to the Director, OLC. The OLC shall notify the home care organization in writing of the receipt of the request for a variance. The OLC may attach conditions to a variance to protect the safety and well-being of the client.</p> <p>F. The licensee shall be notified in writing if the requested variance is denied.</p> <p>G. If a variance is denied, expires, or is rescinded, routine enforcement of the regulation or portion of the regulation shall be resumed.</p> <p>H. The home care organization shall</p>
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		<p>to the Director, OLC. The OLC shall notify the home care organization in writing of the receipt of the request for a variance. The OLC may attach conditions to a variance to protect the safety and well-being of the client.</p> <p>F. The licensee shall be notified in writing if the requested variance is denied.</p> <p>G. If a variance is denied, expires, or is rescinded, routine enforcement of the regulation or portion of the regulation shall be resumed.</p> <p>H. The home care organization shall develop procedures for monitoring the implementation of any approved variances to assure the ongoing collection of any data relevant to the variance and the presentation of any later report concerning the variance as requested by the OLC.</p>	<p>develop procedures for monitoring the implementation of any approved variances to assure the ongoing collection of any data relevant to the variance and the presentation of any later report concerning the variance as requested by the OLC.</p> <p><u>A. The commissioner may authorize a temporary variance only to a specific provision of this chapter. In no event shall a temporary variance exceed the term of the license. A home care organization may request a temporary variance to a particular standard or requirement contained in a particular provision of this chapter when the standard or requirement poses an impractical hardship unique to the home care organization and when a temporary variance to it would not endanger the safety or well-being of clients. The request for a temporary variance shall describe how compliance with the current standard or requirement constitutes an impractical hardship unique to the home care organization. The request should include proposed alternatives, if any, to meet the purpose of the standard or requirement that will ensure the protection and well-being of clients. At no time shall a temporary variance be extended to general applicability. The home care organization may withdraw a request for a temporary variance at any time.</u></p> <p><u>B. The commissioner may rescind or modify a temporary variance if: (i) conditions change; (ii) additional information becomes known that alters the basis for the original decision; (iii) the home care organization fails to meet any conditions attached to the temporary variance; or (iv) results of the temporary variance jeopardize the safety or well-being of clients.</u></p> <p><u>C. Consideration of a temporary variance is initiated when a written request is submitted to the commissioner or his designee. The commissioner or his designee shall notify the home care organization in writing of the receipt of the request for a temporary variance. The licensee shall be notified in writing of the</u></p>
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			<p><u>commissioner's decision on the temporary variance request. If granted, the commissioner may attach conditions to a temporary variance to protect the safety and well-being of clients.</u></p> <p><u>D. If a temporary variance is denied, expires or is rescinded, routine enforcement of the standard or requirement to which the temporary variance was granted shall be resumed.</u></p> <p>Intent: Restructuring of the section to reflect best practices and changes in administrative practices. Likely impact: Greater clarity of the regulations.</p>
<p>130- <u>Revocation or suspension of a license</u> <u>Violation of this chapter or applicable law; denial, revocation, or suspension of license.</u></p>		<p>A. The commissioner is authorized to revoke or suspend any license if the licensee fails to comply with the provisions of Article 7.1 (§ 32.1-162.7 et seq.) of Chapter 5 of Title 32.1 of the Code of Virginia or the regulations of the board.</p> <p>B. If a license is revoked, the commissioner may issue a new license when the conditions upon which revocation was based have been corrected and compliance with all provisions of the law and this chapter has been achieved.</p> <p>C. When a license is revoked or suspended, the organization shall cease operations. If the organization continues to operate after its license has been revoked or suspended, the commissioner may request the Office of the Attorney General to petition the circuit court of the jurisdiction in which the home care organization is located for an injunction to cause such home care organization to cease operations.</p> <p>D. Suspension of a license</p>	<p>A. The commissioner is authorized to revoke or suspend any license if the licensee fails to comply with the provisions of Article 7.1 (§ 32.1-162.7 et seq.) of Chapter 5 of Title 32.1 of the Code of Virginia or the regulations of the board.</p> <p>B. If a license is revoked, the commissioner may issue a new license when the conditions upon which revocation was based have been corrected and compliance with all provisions of the law and this chapter has been achieved.</p> <p>C. When a license is revoked or suspended, the organization shall cease operations. If the organization continues to operate after its license has been revoked or suspended, the commissioner may request the Office of the Attorney General to petition the circuit court of the jurisdiction in which the home care organization is located for an injunction to cause such home care organization to cease operations.</p> <p>D. Suspension of a license shall in all cases be for an indefinite time. The suspension may be lifted and rights under the license fully or partially restored at such time as the commissioner determines that the rights of the licensee appear to so require and the interests of the public will not be jeopardized by resumption of operation.</p> <p><u>A. When the department determines</u></p>

		<p>shall in all cases be for an indefinite time. The suspension may be lifted and rights under the license fully or partially restored at such time as the commissioner determines that the rights of the licensee appear to so require and the interests of the public will not be jeopardized by resumption of operation.</p>	<p><u>that a home care organization is (i) in violation of any provision of Article 7.1 (§ 32.1-162.7 et seq.) of Chapter 5 of Title 32.1 of the Code of Virginia or of any applicable regulation, or (ii) is permitting, aiding, or abetting the commission of any illegal act in the home care organization, the department may deny, suspend, or revoke the license to operate a home care organization in accordance with § 32.1-162.13 of the Code of Virginia.</u></p> <p><u>B. If a license is revoked as herein provided, upon application, a new license may be issued by the commissioner after satisfactory evidence is submitted to him that the conditions upon which revocation was based have been corrected and after proper inspection has been made and compliance with all provision of Article 7.1 of Chapter 5 of Title 32.1 of the Code of Virginia and applicable state and federal law and regulations hereunder has been obtained.</u></p> <p><u>C. Suspension of a license shall in all cases be for an indefinite time. The commissioner may restore a suspended license when he determines that the conditions upon which suspension was based have been corrected and that the interests of the public will not be jeopardized by resumption of operation. No additional fee shall be required for restoring such a license.</u></p> <p><u>D. The home care organization has the right to contest the denial revocation, or suspension of a license in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).</u></p> <p><u>E. Whenever a license is revoked or suspended and the organization continues to operate, the Commissioner may, in accordance with § 32.1-162-13(c) of the Code of Virginia, request the Office of the Attorney General to petition the circuit court of the jurisdiction in which the home care organization is located for an injunction to cause such home care organization to cease providing services.</u></p>
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			<p><u>F. The Commissioner or his designee shall notify the Department of Medical Assistance Services whenever any license is revoked, suspended, or expired.</u></p> <p>Intent: Restructuring of the section to reflect best practices and changes in administrative practices. Likely impact: Greater clarity of the regulations.</p>
<p>140- <u>Return of a license Discontinuation of services</u></p>		<p>A. Circumstances under which a license must be returned include, but are not limited to (i) transfer of ownership and (ii) discontinuation of services. B. The licensee shall notify its clients and the OLC, in writing, 30 days before discontinuing services. C. If the organization is no longer operational, or the license has been suspended or revoked, the license shall be returned to the OLC within five working days. The licensee shall notify its clients and the OLC where all home care records will be located.</p>	<p>A. Circumstances under which a license must be returned include, but are not limited to (i) transfer of ownership and (ii) discontinuation of services. B. The licensee shall notify its clients and the OLC, in writing, 30 days before discontinuing services. C. If the organization is no longer operational person discontinues services, or the license has been suspended or revoked, the license shall be returned to the OLC within five working days. The licensee organization shall notify its clients and the OLC where all client home care records will be located.</p> <p>Intent: Restructuring of the section to reflect best practices and changes in administrative practices. Likely impact: Greater clarity of the regulations.</p>
<p>150- Management and administration</p>		<p>A. No person shall establish or operate a home care organization, as defined in § 32.1-162.7 of the Code of Virginia, without having obtained a license. B. The organization must comply with: 1. This chapter (12VAC5-381); 2. Other applicable federal, state or local laws and regulations; and 3. The organization's own policies and procedures. C. The organization shall submit or make available reports and information necessary to establish compliance with this chapter</p>	<p>A. No person shall establish or operate a home care organization, as defined in § 32.1-162.7 of the Code of Virginia, without having obtained a license. B. The organization must shall comply with: 1. This chapter (12VAC5-381); 2. Other applicable federal, state or local laws and regulations; and 3. The organization's own policies and procedures. C. The organization shall submit or make available reports and information <u>as requested by OLC as necessary</u> to establish compliance with this chapter and applicable law. D. The organization shall permit representatives from the OLC to</p>

		<p>and applicable law.</p> <p>D. The organization shall permit representatives from the OLC to conduct inspections to:</p> <ol style="list-style-type: none"> 1. Verify application information; 2. Determine compliance with this chapter; 3. Review necessary records and documents; and 4. Investigate complaints. <p>E. The organization shall notify the OLC 30 days in advance of changes affecting the organization, including the:</p> <ol style="list-style-type: none"> 1. Service area; 2. Mailing address of the organization; 3. Ownership; 4. Services provided; 5. Operator; 6. Administrator; 7. Organization name; and 8. Closure of the organization. <p>F. The current license from the department shall be posted for public inspection.</p> <p>G. Service providers or community affiliates under contract with the organization must comply with the organization's policies and this chapter.</p> <p>H. The organization shall not use any advertising that contains false, misleading or deceptive statements or claims, or false or misleading disclosures of fees and payment for services.</p> <p>I. The organization shall have regular posted business hours and be fully operational during such business hours. In addition, the organization shall provide or arrange for services to their clients on an on-call basis 24 hours a day, seven days a week.</p> <p>J. The organization shall accept a client only when</p>	<p>conduct inspections to:</p> <ol style="list-style-type: none"> 1. Verify application information; 2. Determine compliance with this chapter; 3. Review necessary records and documents; and 4. Investigate complaints. <p>E. The organization shall notify the OLC 30 <u>working</u> days in advance of changes affecting the organization, including the:</p> <ol style="list-style-type: none"> 1. Service area; <u>Operator;</u> 2. Mailing address of the organization; <u>Organization name;</u> 3. Ownership; <u>Physical or mailing address;</u> 4. <u>Ownership or removal of branch offices;</u> 45. Services <u>Addition or removal of services provided;</u> 5. Operator; <u>6. Service area</u> 6. Administrator; <u>7. Ownership</u> 7. Organization name <u>8. Administration;</u> and 8-9. <u>Closure of the organization.</u> <p><u>Changes to E (1) through E (5) and E(7) shall require reissuance of the organization's license pursuant to 12VAC5-381-60.</u></p> <p>F. The current license from the department shall be posted for public inspection, <u>in a conspicuous place to which members of the public have ready access. Posting of the license on the organization's website shall meet this requirement.</u></p> <p>G. Service providers or community affiliates under contract with the organization must <u>shall</u> comply with the organization's policies and this chapter.</p> <p>H. The organization shall not use any advertising that contains false, misleading or deceptive statements or claims, or false or misleading disclosures of fees and payment for services.</p> <p>I. The organization shall have regular posted business hours and be fully operational during such business hours. In addition, the organization shall provide or arrange for services to</p>
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		<p>the organization can adequately meet that client's needs in the client's place of residence.</p> <p>K. The organization must have a prepared plan for emergency operations in case of inclement weather or natural disaster to include contacting and providing essential care to clients, coordinating with community agencies to assist as needed, and maintaining a current list of clients who would require specialized assistance.</p> <p>L. The organization shall encourage and facilitate the availability of flu shots for its staff and clients.</p>	<p>their clients on an on-call basis 24 hours a day, seven days a week.</p> <p>J. The organization shall accept a client only when the organization can adequately meet that client's needs in the client's place of residence.</p> <p>K. The organization must <u>shall</u> have a prepared plan for emergency operations <u>an emergency management plan</u> in case of inclement weather or natural disaster to include contacting and providing essential care to clients, coordinating with community agencies to assist as needed, and maintaining a current list of clients who would require specialized assistance.</p> <p>L. The organization shall encourage and facilitate the availability of flu shots for its staff and clients.</p> <p>Intent: Minor restructuring to clarify which changes require a reissuance of the organization's license. Clarification regarding posting of a license. Likely impact: Greater clarity of the regulations.</p>
<p>170-Administrator</p>		<p>A. The governing body shall appoint as administrator an individual who has evidence of at least one year of training and experience in direct health care service delivery with at least one year within the last five years of supervisory or administrative management experience in home health care or a related health program.</p> <p>B. The administrator shall be responsible for the day-to-day management of the organization, including but not limited to:</p> <ol style="list-style-type: none"> 1. Organizing and supervising the administrative function of the organization; 2. Maintaining an ongoing liaison with the governing body, the professional personnel and staff; 3. Employing qualified personnel and ensuring adequate staff orientation, 	<p>The governing body shall appoint as administrator an individual who has evidence of at least one year of training and experience in direct health care service delivery with at least one year within the last five years of supervisory or administrative management experience in home health care or a related health program. <u>The governing body shall appoint an administrator who has experience within the last five years with health care administration or management. Preference shall be given to applicants who are licensed health care professionals.</u></p> <p>B. The administrator shall be responsible for the day-to-day management of the organization, including but not limited to:</p> <ol style="list-style-type: none"> 1. Organizing and supervising the administrative function of the organization; 2. Maintaining an ongoing liaison with the governing body, the professional personnel and staff; 3. Employing qualified personnel and ensuring adequate staff

		<p>training, education and evaluation; 4. Ensuring the accuracy of public information materials and activities; 5. Implementing an effective budgeting and accounting system; 6. Maintaining compliance with applicable laws and regulations and implementing corrective action in response to reports of organization committees and regulatory agencies; 7. Arranging and negotiating services provided through contractual agreement; and 8. Implementing the policies and procedures approved by the governing body. C. The individual designated to perform the duties of the administrator when the administrator is absent from the organization shall be able to perform the duties of the administrator as identified in subsection B of this section. D. The administrator or his designee shall be available at all times during operating hours and for emergency situations.</p>	<p>orientation, training, education and evaluation; 4. Ensuring the accuracy of public information materials and activities; 5. Implementing an effective budgeting and accounting system; 6. Maintaining compliance with applicable laws and regulations and implementing corrective action in response to reports of organization committees and regulatory agencies; 7. Arranging and negotiating services provided through contractual agreement; and 8. Implementing the policies and procedures approved by the governing body. <u>Ensuring the development, implementation and enforcement of all policies and procedures.</u> C. The individual designated to perform the duties of the administrator when the administrator is absent from the organization shall be able to perform the duties of the administrator as identified in subsection B of this section. <u>The organization shall designate an individual to perform the duties of the administrator when the administrator is absent.</u> D. The administrator or his designee shall be available at all times during operating hours and for emergency situations. Intent: Clarification of the necessary prerequisites of an administrator. Likely impact: Greater clarification of the regulations.</p>
<p>180- Written policies and procedures</p>		<p>A. The organization shall implement written policies and procedures approved by the governing body. B. All policies and procedures shall be reviewed at least annually, with recommended changes submitted to the governing body for approval, as necessary. C. Administrative and operational policies and procedures shall include, but</p>	<p>A. The organization shall implement written policies and procedures approved by the governing body. B. All policies and procedures shall be reviewed at least annually, with recommended changes submitted to the governing body for approval, as necessary. C. Administrative and operational policies and procedures shall include, but are not limited to: 1. Administrative records;</p>

		<p>are not limited to:</p> <ol style="list-style-type: none"> 1. Administrative records; 2. Admission and discharge or termination from service criteria; 3. Informed consent; 4. Advance directives, including Durable Do Not Resuscitate Orders; 5. Client rights; 6. Contract services; 7. Medication management, if applicable; 8. Quality improvement; 9. Mandated reporting of abuse, neglect and exploitation pursuant to § 63.2-1606 of the Code of Virginia; 10. Communicable and reportable diseases; 11. Client records, including confidentiality; 12. Record retention, including termination of services; 13. Supervision and delivery of services; 14. Emergency and on-call services; 15. Infection control; 16. Handling consumer complaints; 17. Telemonitoring; and 18. Approved variances. <p>D. Financial policies and procedures shall include, but are not limited to:</p> <ol style="list-style-type: none"> 1. Admission agreements; 2. Data collection and verification of services delivered; 3. Methods of billing for services by the organization and by contractors; 4. Client notification of changes in fees and charges; 5. Correction of billing errors and refund policy; and 6. Collection of delinquent client accounts. <p>E. Personnel policies and procedures shall include, but are not limited to a:</p> <ol style="list-style-type: none"> 1. Written job description 	<ol style="list-style-type: none"> 2. Admission and discharge or termination from service criteria; 3. Informed consent; 4. Advance <u>Providing information regarding advance directives, including Durable Do Not Resuscitate Orders;</u> 5. Client rights; 6. Contract services; 7. Medication management, if applicable; 8. Quality improvement; 9. Mandated reporting of abuse, neglect and exploitation pursuant to § 63.2-1606 of the Code of Virginia; 10. Communicable and reportable diseases; 11. Client records, including confidentiality; 12. Record retention, including <u>after</u> termination of services; 13. Supervision and delivery of services; 14. Emergency and on-call services; 15. Infection control; 16. Handling consumer complaints; 17. Telemonitoring; and 18. Approved variances; <u>and</u> 19. <u>An emergency management plan.</u> <p>D. Financial policies and procedures shall include, but are not limited to:</p> <ol style="list-style-type: none"> 1. Admission agreements; 2. Data collection and verification of services delivered; 3. Methods of billing for services by the organization and by contractors; 4. Client notification of changes in fees and charges; 5. Correction of billing errors and refund policy; and 6. Collection of delinquent client accounts. <p>E. Personnel policies and procedures shall include, but are not limited to a:</p> <ol style="list-style-type: none"> 1. Written job description that specifies authority, responsibility, and qualifications for each job classification;
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		<p>that specifies authority, responsibility, and qualifications for each job classification;</p> <p>2. Process for maintaining an accurate, complete and current personnel record for each employee;</p> <p>3. Process for verifying current professional licensing or certification and training of employees or independent contractors;</p> <p>4. Process for annually evaluating employee performance and competency;</p> <p>5. Process for verifying that contractors and their employees meet the personnel qualifications of the organization;</p> <p>6. Process for obtaining a criminal background check and maintaining a drug-free workplace pursuant to § 32.1-162.9:1 of the Code of Virginia; and</p> <p>7. Process for reporting licensed and certified medical personnel for violations of their licensing or certification to the appropriate board within the Department of Health Professions.</p> <p>F. Admission and discharge or termination from service policies and procedures shall include, but are not limited to:</p> <p>1. Criteria for accepting clients for services offered;</p> <p>2. The process for obtaining a plan of care or service;</p> <p>3. Criteria for determining discharge or termination from each service and referral to other agencies or community services; and</p> <p>4. Process for notifying clients of intent to discharge/terminate or refer, including:</p> <p>a. Oral and written notice and explanation of the</p>	<p><u>2. Standards of conduct, which shall include corrective action that may be taken to address violations of the standards, and a method for enforcing the standards while an employee is in a client's residence;</u></p> <p>2. <u>3.</u> Process for maintaining an accurate, complete and current personnel record for each employee;</p> <p>3. <u>4.</u> Process for verifying current professional licensing or certification and training of employees or independent contractors;</p> <p><u>45.</u> Process for annually evaluating employee performance and competency;</p> <p><u>56.</u> Process for verifying that contractors and their employees meet the personnel qualifications of the organization;</p> <p>67. Process for obtaining a criminal background check and maintaining a drug-free workplace pursuant to § 32.1-162.9:1 of the Code of Virginia; and</p> <p>78. Process for reporting licensed and certified medical personnel for violations of their licensing or certification to the appropriate board within the Department of Health Professions. <u>Director of the Office of Licensure and Certification at the Department of Health as required by § 54.1-2400.6.</u></p> <p>F. Admission and discharge or termination from service policies and procedures shall include, but are not limited to:</p> <p>1. Criteria for accepting clients for services offered;</p> <p>2. The process for obtaining a plan of care or service;</p> <p>3. Criteria for determining discharge or termination from each service and referral to other agencies or community services; and</p> <p>4. Process for notifying clients of intent to discharge/terminate or refer, including:</p> <p>a. Oral and written notice and explanation of the reason for</p>
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		<p>reason for discharge/termination or referral; b. The name, address, telephone number and contact name at the referral organization; and c. Documentation in the client record of the referral or notice. G. Policies shall be made available for review, upon request, to clients and their designated representatives. H. Policies and procedures shall be readily available for staff use at all times.</p>	<p>discharge/termination or referral; b. The name, address, telephone number and contact name at the referral organization; and c. Documentation in the client record of the referral or notice. G. Policies shall be made available for review, upon request, to clients and their designated representatives. H. Policies and procedures shall be readily available for staff use at all times. Intent: Minor clarifying amendments. Addition of the necessity of a Standards of Conduct, and a minor amendment necessary because of legislative changes, which will require reporting to the Director of the OLC. Likely impact: Greater safety of patients due to the addition of standards of conduct. Greater clarity of the regulations.</p>
<p>190- Financial controls</p>		<p>A. Every applicant for an initial license to establish or operate a home care organization shall include as part of his application a detailed operating budget showing projected operating expenses for the three-month period after a license to operate has been issued. Further, every applicant for an initial license to establish or operate a home care organization shall include as part of his application proof of initial reserve operating funds in the amount sufficient to ensure operation of the home care organization for the three-month period after a license to operate has been issued. Such funds may include: 1. Cash; 2. Cash equivalents that are readily convertible to known amounts of cash and that present insignificant risk of change in value; 3. Borrowed funds that are immediately available to the</p>	<p>A. Every applicant for an initial license to establish or operate a home care organization shall include as part of his application a detailed operating budget showing projected operating expenses for the three-month period after a license to operate has been issued. Further, every applicant for an initial license to establish or operate a home care organization shall include as part of his application proof of initial reserve operating funds in the amount sufficient to ensure operation of the home care organization for the three-month period after a license to operate has been issued. Such funds may include: 1. Cash; 2. Cash equivalents that are readily convertible to known amounts of cash and that present insignificant risk of change in value; 3. Borrowed funds that are immediately available to the applicant; or 4. A line of credit that is immediately available to the applicant. Proof of funds sufficient to meet these requirements shall include a current balance sheet demonstrating the availability of funds, a letter from the</p>

		<p>applicant; or 4. A line of credit that is immediately available to the applicant. Proof of funds sufficient to meet these requirements shall include a current balance sheet demonstrating the availability of funds, a letter from the officer of the bank or other financial institution where the funds are held, or a letter of credit from a lender demonstrating the current availability of and amount of a line of credit. B. The organization shall document financial resources to operate based on a working budget showing projected revenue and expenses. C. All financial records shall be kept according to generally accepted accounting principles (GAAP). D. All financial records shall be audited at least triennially by an independent certified public accountant (CPA) or audited as otherwise provided by law. E. The organization shall have documented financial controls to minimize risk of theft or embezzlement.</p>	<p>officer of the bank or other financial institution where the funds are held, or a letter of credit from a lender demonstrating the current availability of and amount of a line of credit. B. The organization shall document financial resources to operate based on a working budget showing projected revenue and expenses. <u>The organization shall maintain records of financial resources and a working budget throughout operations and shall make these records available to any OLC representative conducting an on-site inspection in accordance with 12VAC5-381-80.</u> C. All financial records shall be kept according to generally accepted accounting principles (GAAP). D. All financial records shall be audited at least triennially by an independent certified public accountant (CPA), or audited as otherwise provided by law. E. The organization shall have documented financial controls to minimize risk of theft or embezzlement. Intent: Part B was developed with stakeholders in order to ensure that accurate up to date records are kept at all times. Likely impact: Increased financial security of facilities; which may reduce facility closures and thus lead to greater patient safety.</p>
<p>200- Personnel practices</p>		<p>A. Personnel management and employment practices shall comply with applicable state and federal laws and regulations. B. The organization shall design and implement a staffing plan that reflects the types of services offered and shall provide qualified staff in sufficient numbers to meet the assessed needs of all clients. C. Employees and contractors shall be licensed or certified as required by the Department of Health Professions.</p>	<p>A. Personnel management and employment practices shall comply with applicable state and federal laws and regulations. B. The organization shall design and implement a staffing plan that reflects the types of services offered and shall provide qualified staff in sufficient numbers to meet the assessed needs of all clients. C. Employees and contractors shall be licensed or certified as required by the Department of Health Professions. D. The organization shall design and implement a mechanism to verify professional credentials.</p>

		<p>D. The organization shall design and implement a mechanism to verify professional credentials.</p> <p>E. Any person who assumes the responsibilities of any staff position or positions shall meet the minimum qualifications for that position or positions.</p> <p>F. The organization shall obtain the required sworn statement and criminal record check for each compensated employee as specified in § 32.1-162.9:1 of the Code of Virginia.</p> <p>G. Each employee position shall have a written job description that includes:</p> <ol style="list-style-type: none"> 1. Job title; 2. Duties and responsibilities required of the position; 3. Job title of the immediate supervisor; and 4. Minimum knowledge, skills, and abilities or professional qualifications required for entry level. <p>H. Employees shall have access to their current position description. There shall be a mechanism for advising employees of changes to their job responsibilities.</p> <p>I. New employees and contract individuals shall be oriented commensurate with their function or job-specific responsibilities. Orientation shall include:</p> <ol style="list-style-type: none"> 1. Objectives and philosophy of the organization; 2. Confidentiality; 3. Client rights; 4. Mandated reporting of abuse, neglect, and exploitation; 5. Applicable personnel policies; 6. Emergency preparedness procedures; 7. Infection control practices and measures; 	<p>E. Any person who assumes the responsibilities of any staff position or positions shall meet the minimum qualifications for that position or positions.</p> <p>F. The organization shall obtain the required sworn statement and criminal record check for each compensated employee as specified in § 32.1-162.9:1 of the Code of Virginia.</p> <p>G. Each employee position shall have a written job description that includes:</p> <ol style="list-style-type: none"> 1. Job title; 2. Duties and responsibilities required of the position; 3. Job title of the immediate supervisor; and 4. Minimum knowledge, skills, and abilities or professional qualifications required for entry level. <p>H. Employees shall have access to their current position description. There shall be a mechanism for advising employees of changes to their job responsibilities.</p> <p>I. New employees and contract individuals shall be oriented commensurate with their function or job-specific responsibilities. Orientation shall include <u>but is not limited to</u>:</p> <ol style="list-style-type: none"> 1. Objectives and philosophy of the organization; 2. <u>All of the organization's administrative policies and procedures;</u> 33. Confidentiality; 44. Client rights; 45. Mandated reporting of abuse, neglect, and exploitation; 55. Applicable personnel policies; 66. Emergency preparedness procedures; 76. Infection control practices and measures; 87. Cultural awareness; and 98. Applicable laws, regulations, and other policies and procedures that apply to specific positions, specific duties and responsibilities. <p>J. The organization shall develop and</p>
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		<p>8. Cultural awareness; and</p> <p>9. Applicable laws, regulations, and other policies and procedures that apply to specific positions, specific duties and responsibilities.</p> <p>J. The organization shall develop and implement a policy for evaluating employee performance.</p> <p>K. Individual staff development needs and plans shall be a part of the performance evaluation.</p> <p>L. The organization shall provide opportunities for and record participation in staff development activities designed to enable staff to perform the responsibilities of their positions.</p> <p>M. All individuals who enter a client's home for or on behalf of the organization shall be readily identifiable by employee nametag, uniform or other visible means.</p> <p>N. The organization shall maintain an organized system to manage and protect the confidentiality of personnel files and records.</p> <p>O. Employee personnel records, whether hard copy or electronic, shall include:</p> <ol style="list-style-type: none"> 1. Identifying information; 2. Education and training history; 3. Employment history; 4. Results of the verification of applicable professional licenses or certificates; 5. Results of reasonable efforts to secure job-related references and reasonable verification of employment history; 6. Results of performance evaluations; 7. A record of disciplinary actions taken by the organization, if any; 8. A record of adverse action by any licensing bodies and 	<p>implement a policy for evaluating employee performance.</p> <p>K. Individual staff development needs and plans shall be a part of the performance evaluation.</p> <p>L. The organization shall provide opportunities for and record participation in staff development activities designed to enable staff to perform the responsibilities of their positions.</p> <p>M. All individuals who enter a client's home <u>residence</u> for or on behalf of the organization shall be readily identifiable by employee nametag, uniform or other visible means.</p> <p>N. The organization shall maintain an organized system to manage and protect the confidentiality of personnel files and records.</p> <p>O. Employee personnel records, whether hard copy or electronic, shall include:</p> <ol style="list-style-type: none"> 1. Identifying information; 2. Education and training history; 3. Employment history; 4. Results of the verification of applicable professional licenses or certificates; 5. Results of reasonable efforts to secure job-related references and reasonable verification of employment history; 6. Results of performance evaluations; 7. A record of disciplinary actions taken by the organization, if any; 8. A record of adverse action by any licensing bodies and organizations, if any; 9. A record of participation in staff development activities, including orientation; and 10. The criminal record check and sworn affidavit. <u>For employees that work in multiple locations, the original criminal record check shall reside in their employee record located in the central office and the organization shall provide proof of this documentation to any OLC representative conducting an</u>
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		<p>organizations, if any; 9. A record of participation in staff development activities, including orientation; and 10. The criminal record check and sworn affidavit. P. All positive results from drug testing shall be reported to the health regulatory boards responsible for licensing, certifying, or registering the person to practice, if any, pursuant to § 32.1-162.9:1 of the Code of Virginia. Q. Each employee personnel record shall be retained in its entirety for a minimum of three years after termination of employment. R. Personnel record information shall be safeguarded against loss and unauthorized use. S. Employee health-related information shall be maintained separately within the employee's personnel file.</p>	<p><u>inspection in accordance with 12VAC5-381-80.</u> P. All positive results from drug testing shall be reported to the health regulatory boards responsible for licensing, certifying, or registering the person to practice, if any, pursuant to § 32.1-162.9:1 of the Code of Virginia. Q. Each employee personnel record shall be retained in its entirety for a minimum of three years after termination of employment. R. Personnel record information shall be safeguarded against loss and unauthorized use. S. Employee health-related information shall be maintained separately within the <u>from the remainder of the</u> employee's personnel file.</p> <p>Intent: Simplifying and clarifying language and clarification regarding criminal record checks of employees who work in multiple locations. Likely impact: Greater clarity of the regulations.</p>
<p>210 – Indemnity coverage</p>		<p>A. The governing body shall ensure the organization and its contractors have appropriate indemnity coverage to compensate clients for injuries and losses resulting from services provided. B. The organization shall purchase and maintain the following types and minimum amounts of indemnity coverage at all times: 1. Malpractice insurance consistent with § 8.01-581.15 of the Code of Virginia; 2. General liability insurance covering personal property damages, bodily injuries, product liability, and libel and slander of at least \$1 million comprehensive general liability per occurrence; and</p>	<p>A. The governing body shall ensure the organization and its contractors have appropriate indemnity coverage to compensate clients for injuries and losses resulting from services provided. B. The organization shall purchase and maintain the following types and minimum amounts of indemnity coverage at all times: 1. Malpractice insurance consistent with <u>sufficient to meet the requirements of § 8.01-581.15</u> of the Code of Virginia; 2. General liability insurance covering personal property damages, bodily injuries, product liability, and libel and slander of at least \$1 million comprehensive general liability per occurrence; and 3. Third-party crime insurance or a blanket fidelity bond of \$50,000 minimum.</p> <p>Intent: Minor correction Impact: Greater clarity of the regulations</p>

		3. Third-party crime insurance or a blanket fidelity bond of \$50,000 minimum.	
220- Contract Services		<p>A. There shall be a written agreement for the provision of services not provided by employees of the organization.</p> <p>B. The written agreement shall include, but is not limited to:</p> <ol style="list-style-type: none"> 1. The services to be furnished by each party to the contract; 2. The contractor's responsibility for participating in developing plans of care or service; 3. The manner in which services will be controlled, coordinated, and evaluated by the primary home care organization; 4. The procedures for submitting notes on the care or services provided, scheduling of visits, and periodic client evaluation; 5. The process for payment for services furnished under the contract; and 6. Adequate liability insurance and third-party crime insurance or a blanket fidelity bond. <p>C. The organization shall have a written plan for provision of care or services when a contractor is unable to deliver services.</p> <p>D. The contractor shall conform to applicable organizational policies and procedures as specified in the contract, including the required sworn disclosure statement and criminal record check.</p>	<p>A. There shall be a written agreement for the provision of services not provided by employees of the organization.</p> <p>B. The written agreement shall include, but is not limited to:</p> <ol style="list-style-type: none"> 1. The services to be furnished by each party to the contract; 2. The contractor's responsibility for participating in developing plans of care or service; 3. The manner in which services will be controlled, coordinated, and evaluated by the primary home care organization; 4. The procedures for submitting notes on the care or services provided, scheduling of visits, and periodic client evaluation; 5. The process for payment for services furnished under the contract; and 6. Adequate liability insurance and third-party crime insurance or a blanket fidelity bond- <u>as required by 12VAC5-381-210 (B).</u> <p>C. The organization shall have a written plan for provision of care or services when a contractor is unable to deliver services.</p> <p>D. The contractor shall conform to applicable organizational policies and procedures as specified in the contract, including the required sworn disclosure statement and criminal record check.</p> <p>Intent: Minor clarifying language Likely impact: Greater clarity of the regulations</p>
230- Client rights		<p>A. The organization shall establish and implement written policies and procedures regarding the rights of clients.</p> <p>B. Client rights shall be reviewed with clients or</p>	<p>A. The organization shall establish and implement written policies and procedures regarding the rights of clients.</p> <p>B. Client rights shall be reviewed with clients or client designees upon admission to the organization. The</p>

		<p>client designees upon admission to the organization. The review shall be documented in the client's record.</p> <p>C. Written procedures to implement the policies shall ensure that each client is:</p> <ol style="list-style-type: none"> 1. Treated with courtesy, consideration and respect and is assured the right of privacy; 2. Assured confidential treatment of his medical and financial records as provided by law; 3. Free from mental and physical abuse, neglect, and property exploitation; 4. Assured the right to participate in the planning of the client's home care, including the right to refuse services; 5. Served by individuals who are properly trained and competent to perform their duties; 6. Assured the right to voice grievances and complaints related to organizational services without fear of reprisal; 7. Advised, before care is initiated, of the extent to which payment for the home care organization services may be expected from federal or state programs, and the extent to which payment may be required from the client; 8. Advised orally and in writing of any changes in fees for services that are the client's responsibility. The home care organization shall advise the client of these changes as soon as possible, but no later than 30 calendar days from the date the home care organization became aware of the change; 9. Provided with advance directive information prior to 	<p>review shall be documented in the client's record.</p> <p>C. Written procedures to implement the policies shall ensure that each client is <u>at a minimum</u>:</p> <ol style="list-style-type: none"> 1. Treated with courtesy, consideration and respect and is assured the right of privacy; 2. Assured confidential treatment of his medical and financial records as provided by law; 3. Free from mental and physical abuse, neglect, and property exploitation; 4. Assured the right to participate in the planning of the client's home care, including the right to refuse services; 5. Served by individuals who are properly trained and competent to perform their duties; 6. Assured the right to voice grievances and complaints related to organizational services without fear of reprisal; 7. Advised, before care is initiated, of the extent to which payment for the home care organization services may be expected from federal or state programs, and the extent to which payment may be required from the client; 8. Advised orally and in writing of any changes in fees for services that are the client's responsibility. The home care organization shall advise the client of these changes as soon as possible, but no later than 30 calendar days from the date the home care organization became aware of the change; 9. Provided with advance directive information prior to start of services; and 10. Given at least five days written notice when the organization determines to terminate services; and 11. <u>Afforded an opportunity to offer feedback and input regarding the services provided by the assigned home care attendant(s) or any other employee or contractor of the home care organization. The organization shall clearly inform its clients that such feedback and input is</u>
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		<p>start of services; and</p> <p>10. Given at least five days written notice when the organization determines to terminate services.</p> <p>D. Before care is initiated, the home care organization shall inform the client, orally and in writing, of:</p> <ol style="list-style-type: none"> 1. The nature and frequency of services to be delivered and the purpose of the service; 2. Any anticipated effects of treatment, as applicable; 3. A schedule of fees and charges for services; 4. The method of billing and payment for services, including the: <ol style="list-style-type: none"> a. Services to be billed to third party payers; b. Extent to which payment may be expected from third party payers known to the home care organization; and c. Charges for services that will not be covered by third party payers; 5. The charges that the individual may have to pay; 6. The requirements of notice for cancellation or reduction in services by the organization and the client; and 7. The refund policies of the organization. 	<p><u>voluntary, may be anonymous, and any information provided shall not affect the client's care.</u></p> <p>D. Before care is initiated, the home care organization shall inform the client, orally and in writing, of:</p> <ol style="list-style-type: none"> 1. The nature and frequency of services to be delivered and the purpose of the service; 2. Any anticipated effects of treatment, as applicable; 3. A schedule of fees and charges for services; 4. The method of billing and payment for services, including the: <ol style="list-style-type: none"> a. Services to be billed to third party payers; b. Extent to which payment may be expected from third party payers known to the home care organization; and c. Charges for services that will not be covered by third party payers; 5. The charges that the individual may have to pay; 6. The requirements of notice for cancellation or reduction in services by the organization and the client; and 7. The refund policies of the organization. <p>Intent: Provide patients an opportunity to offer feedback to the facility. Likely impact: Greater patient satisfaction.</p>
<p>240- Handling Complaints Received from Clients</p>		<p>A. The organization shall establish and maintain complaint handling procedures that specify the:</p> <ol style="list-style-type: none"> 1. System for logging receipt, investigation and resolution of complaints; and 2. Format of the written record of the findings of each complaint investigated. <p>B. The organization shall designate staff responsible for complaint resolution, including:</p> <ol style="list-style-type: none"> 1. Complaint intake, including acknowledgment of complaints; 2. Investigation of the 	<p>A. The organization shall establish and maintain complaint handling procedures that specify the:</p> <ol style="list-style-type: none"> 1. System for logging receipt, investigation and resolution of complaints; and 2. Format of the written record of the findings of each complaint investigated. <p>B. The organization shall designate staff responsible for complaint resolution, including:</p> <ol style="list-style-type: none"> 1. Complaint intake, including acknowledgment of complaints; 2. Investigation of the complaint; 3. Review of the investigation of

		<p>complaint; 3. Review of the investigation of findings and resolution for the complaint; and 4. Notification to the complainant of the proposed resolution within 30 days from the date of receipt of the complaint. C. The client or his designee shall be given a copy of the complaint procedures at the time of admission to service. The organization shall provide each client or his designee with the name, mailing address, and telephone number of the: 1. Organization contact person; 2. State Ombudsman; and 3. Complaint Unit of the OLC. D. The organization shall maintain documentation of all complaints received and the status of each complaint from date of receipt through its final resolution. Records shall be maintained from the date of last inspection and for no less than three years.</p>	<p>findings and resolution for the complaint; and 4. Notification to the complainant of the proposed resolution within 30 days from the date of receipt of the complaint. C. The client or his designee<u>representative</u> shall be given a copy of the complaint procedures at the time of admission to service <u>and at the time of any changes to the organization's complaint procedures.</u> The organization shall provide each client or his designee<u>representative</u> with the name, mailing address, and telephone number of the: 1. Organization <u>Organization's complaint</u> contact person; 2. State Ombudsman; and 3. Complaint Unit of the OLC. D. The organization shall maintain documentation of all complaints received and the status of each complaint from date of receipt through its final resolution. Records shall be maintained from the date of last inspection and for no less than three years. Intent: Minor clarifying language Likely impact: Greater clarity of the regulations.</p>
<p>250-Quality Improvement</p>		<p>A. The organization shall implement an ongoing, comprehensive, integrated, self-assessment program of the quality and appropriateness of care or services provided, including services provided under contract or agreement. The findings shall be used to correct identified problems and revise policies and practices, as necessary. Exclusive concentration on administrative or cost-of-care issues does not fulfill this requirement. B. The following data shall be evaluated to identify unacceptable or unexpected trends or occurrences: 1. Staffing patterns and</p>	<p>A. The organization shall implement an ongoing, comprehensive, integrated, self-assessment program of the quality and appropriateness of care or services provided, including services provided under contract or agreement. The findings shall be used to correct identified problems and revise policies and practices, as necessary. Exclusive concentration on administrative or cost-of-care issues does not fulfill this requirement. B. The following data shall be evaluated to identify unacceptable or unexpected trends or occurrences: 1. Staffing patterns and performance to assure adequacy and appropriateness of services delivered; 2. Supervision appropriate to the level of service;</p>

		<p>performance to assure adequacy and appropriateness of services delivered;</p> <p>2. Supervision appropriate to the level of service;</p> <p>3. On-call responses;</p> <p>4. Client records for appropriateness of services provided;</p> <p>5. Client satisfaction;</p> <p>6. Complaint resolution;</p> <p>7. Infections;</p> <p>8. Staff concerns regarding client care; and</p> <p>9. Provision of services appropriate to the clients' needs.</p> <p>C. A quality improvement committee responsible for the oversight and supervision of the program, shall consist of:</p> <p>1. The director of skilled services or organization's register nurse as appropriate for the type of services provided;</p> <p>2. A member of the administrative staff;</p> <p>3. Representatives from each of the services provided by the organization, including contracted services; and</p> <p>4. An individual with demonstrated ability to represent the rights and concerns of clients. The individual may be a member of the organization's staff, a client, or a client's family member.</p> <p>In selecting members of this committee, consideration shall be given to a candidate's abilities and sensitivity to issues relating to quality of care and services provided to clients.</p> <p>D. Measures shall be implemented to resolve important problems or concerns that have been identified. Health care practitioners, as applicable,</p>	<p><u>3. Any medication errors;</u></p> <p><u>34. On-call responses;</u></p> <p><u>45. Client records for appropriateness of services provided;</u></p> <p><u>56. Client satisfaction;</u></p> <p><u>67. Complaint resolution;</u></p> <p><u>78. Infections;</u></p> <p><u>89. Staff concerns regarding client care; and</u></p> <p><u>910. Provision of services appropriate to the clients' needs.</u></p> <p>C. A quality improvement committee responsible for the oversight and supervision of the program, shall consist of:</p> <p>1. The director of skilled services or organization's register nurse as appropriate for the type of services provided;</p> <p>2. A member of the administrative staff;</p> <p>3. Representatives from each of the services provided by the organization, including contracted services; and</p> <p>4. An individual with demonstrated ability to represent the rights and concerns of clients. The individual may be a member of the organization's staff, a client, or a client's family member <u>representative</u>.</p> <p>In selecting members of this committee, consideration shall be given to a candidate's abilities and sensitivity to issues relating to quality of care and services provided to clients.</p> <p>D. Measures shall be implemented to resolve important problems or concerns that have been identified. Health care practitioners, as applicable, and administrative staff shall participate in the resolution of the problems or concerns that are identified.</p> <p>E. Results of the quality improvement program shall be reported annually to the governing body and the administrator and available in the organization. The report shall be acted upon by the governing body and the organization. All corrective actions shall</p>
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		<p>and administrative staff shall participate in the resolution of the problems or concerns that are identified.</p> <p>E. Results of the quality improvement program shall be reported annually to the governing body and the administrator and available in the organization. The report shall be acted upon by the governing body and the organization. All corrective actions shall be documented.</p>	<p>be documented.</p> <p>Intent: Minor clarifying language Likely impact: Greater clarity of the regulations.</p>
270- Drop sites		<p>A. The organization may operate one or more drop sites for the convenience of staff providing direct client care or service. However, such sites shall not:</p> <ol style="list-style-type: none"> 1. Have staff assigned; 2. Accept referrals; or 3. Be advertised as part of the organization. <p>B. Any client records located at the site shall be safeguarded against loss or unauthorized use. Only authorized personnel shall have access to client records as specified by state and federal law. It shall be the responsibility of the organization to assure that records maintained at the site are readily available for inspection staff.</p> <p>C. Operation of a drop site as a business office shall constitute a separate organization and shall require licensure.</p> <p>D. Drop sites shall be subject to inspection at any time.</p>	<p>A. The organization may operate one or more drop sites for the convenience of staff providing direct client care or service. However, such sites shall not:</p> <ol style="list-style-type: none"> 1. Have staff assigned; 2. Accept referrals; or 3. Be advertised as part of the organization. <p>B. Any client records located at the site shall be safeguarded against loss or unauthorized use. Only authorized personnel shall have access to client records as specified by state and federal law. It shall be the responsibility of the organization to assure that records maintained at the site are readily available for inspection staff.</p> <p>C. Operation of a drop site as a business office Any location that does not meet the elements of subsection A shall constitute a separate organization and shall require licensure. <u>Drop sites shall not be separately licensed. Should OLC discover a drop site which is separately licensed, the organization shall be required to surrender the license of the drop site to the OLC.</u></p> <p>D. Drop sites shall be subject to inspection at any time.</p> <p>Intent: Clarification that drop sites shall not be licensed as there has been confusion throughout the regulated community regarding this issue. Likely impact: Greater clarity of the regulations. More effective regulations.</p>
280-Client record system		<p>A. The organization shall maintain an organized client</p>	<p>A. The organization shall maintain an organized client record system</p>

		<p>record system according to accepted standards of practice. Written policies and procedures shall specify retention, reproduction, access, storage, content, and completion of the record.</p> <p>B. The client record information shall be safeguarded against loss or unauthorized use.</p> <p>C. Client records shall be confidential. Only authorized personnel shall have access as specified by state and federal law.</p> <p>D. Provisions shall be made for the safe storage of the original record and for accurate and legible reproductions of the original.</p> <p>E. Policies shall specify arrangements for retention and protection of records if the organization discontinues operation and shall provide for notification to the OLC and the client of the location of the records.</p> <p>F. An accurate and complete client record shall be maintained for each client receiving services and shall include, but shall not be limited to:</p> <ol style="list-style-type: none"> 1. Client identifying information; 2. Identification of the primary care physician; 3. Admitting information, including a client history; 4. Information on the composition of the client's household, including individuals to be instructed in assisting the client; 5. An initial assessment of client needs to develop a plan of care or services; 6. A plan of care or service that includes the type and frequency of each service to be delivered either by organization personnel or contract services; 	<p>according to accepted standards of practice. Written policies and procedures shall specify retention, reproduction, access, storage, content, and completion of the record.</p> <p>B. The client record information shall be safeguarded against loss or unauthorized use.</p> <p>C. Client records shall be confidential. Only authorized personnel shall have access as specified by state and federal law.</p> <p>D. Provisions shall be made for the safe storage <u>and disposal</u> of the original record and for accurate and legible reproductions of the original.</p> <p>E. Policies shall specify arrangements for retention and protection of records if the organization discontinues operation and shall provide for notification to the OLC and the client of the location of the records.</p> <p>F. An accurate and complete client record shall be maintained for each client receiving services and shall include, but shall not be limited to:</p> <ol style="list-style-type: none"> 1. Client identifying information; <u>2. A copy of informed consent forms signed by the client, or the client's representative;</u> <u>3. A copy of the authorization for release of confidential information signed by the client or the client's representative;</u> <u>24.</u> Identification of the primary care physician; <u>35.</u> Admitting information, including a client history; <u>46.</u> Information on the composition of the client's household, including individuals to be instructed in assisting the client; <u>57.</u> An initial assessment of client needs to develop a plan of care or services; <u>68.</u> A plan of care or service that includes the type and frequency of each service to be delivered either by organization personnel or contract services; <u>79.</u> Documentation of client rights review; and
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		<p>minor reaches 18 years of age.</p>	
<p>290 – Home attendants</p>		<p>Home attendants shall be able to speak, read and write English and shall meet one of the following qualifications:</p> <ol style="list-style-type: none"> 1. Have satisfactorily completed a nursing education program preparing for registered nurse licensure or practical nurse licensure; 2. Have satisfactorily completed a nurse aide education program approved by the Virginia Board of Nursing; 3. Have certification as a nurse aide issued by the Virginia Board of Nursing; 4. Be successfully enrolled in a nursing education program preparing for registered nurse or practical nurse licensure and have currently completed at least one nursing course that includes clinical experience involving direct client care; 5. Have satisfactorily passed a competency evaluation program that meets the criteria of 42 CFR 484.36 (b). Home attendants of personal care services need only be evaluated on the tasks in 42 CFR 484.36 (b) as those tasks relate to the personal care services to be provided; or 6. Have satisfactorily completed training using the "Personal Care Aide Training Curriculum," 2003 edition, of the Department of Medical Assistance Services. However, this training is permissible for home attendants of personal care services only. 	<p>Home attendants shall be able to speak, read and write English and shall meet one of the following qualifications:</p> <ol style="list-style-type: none"> 1. Have satisfactorily completed a nursing education program preparing for registered nurse licensure or practical nurse licensure; 2. Have satisfactorily completed a nurse aide education program approved by the Virginia Board of Nursing; 3. Have certification as a nurse aide issued by the Virginia Board of Nursing; 4. Be successfully enrolled in a nursing education program preparing for registered nurse or practical nurse licensure and have currently completed at least one nursing course that includes clinical experience involving direct client care; 5. Have satisfactorily passed a competency evaluation program that meets the criteria of 42 CFR 484.36 (b). Home attendants of personal care services need only be evaluated on the tasks in 42 CFR 484.36 (b) as those tasks relate to the personal care services to be provided; or 6. Have satisfactorily completed training using the "Personal Care Aide Training Curriculum," 2003 edition, of the Department of Medical Assistance Services. However, this training is permissible for home attendants of personal care services only. <u>a 40 hour training program in compliance with the Department of Medical Assistance Services (DMAS) Elderly or Disabled with Consumer Direction (EDCD) Waiver Regulations (12VAC30-120) and the ECD Waiver Provider Manual.</u> <p>Intent: Update for correctness. As the Training Curriculum currently referenced in the regulations no longer exists.</p>

			Likely impact: Greater clarity of the regulations.
295- Discharge planning		N/A	<p><u>A. There shall be an organized discharge planning process that includes an evaluation of the client's capacity for self-care and the availability of community services to meet the needs of the client.</u></p> <p><u>B. A registered nurse or qualified social worker shall develop or supervise the development of the discharge plan if the client's evaluation indicates a need for a discharge plan.</u></p> <p>1. <u>The organization shall arrange for the implementation of the discharge plan.</u></p> <p>2. <u>The organization shall transfer or refer clients to appropriate facilities, agencies or services, as needed for follow-up.</u></p> <p><u>C. The organization shall reassess its discharge planning process on an on-going basis. The reassessment shall include a review of discharge plans, as well as a review of clients who were discharged without plans, to ensure that the process is responsive to discharge needs.</u></p> <p>Intent: Previously the requirements of discharge planning were not within the regulations. This is a best practice that should be a part of any patient's medical record and therefore has been added here.</p> <p>Likely impact: Better patient care and more complete regulations.</p>
300- Skilled services		<p>A. The organization shall provide a program of home health services that shall include one or more of the following:</p> <ol style="list-style-type: none"> 1. Nursing services; 2. Physical therapy services; 3. Occupational therapy services; 4. Speech therapy services; 5. Respiratory therapy services; or 6. Medical social services. <p>B. All skilled services delivered shall be prescribed in a medical plan of care that contains at least the</p>	<p>A. The organization shall provide a program of home health services that shall include one or more of the following:</p> <ol style="list-style-type: none"> 1. Nursing services; 2. Physical therapy services; 3. Occupational therapy services; 4. Speech therapy services; <u>or</u> 5. Respiratory therapy services; or 6-5. Medical social services. <p>B. All skilled services delivered shall be prescribed in a medical plan of care that contains at least the following information:</p> <ol style="list-style-type: none"> 1. Diagnosis and prognosis;

	<p>following information:</p> <ol style="list-style-type: none"> 1. Diagnosis and prognosis; 2. Functional limitations; 3. Orders for all skilled services, including: (i) specific procedures, (ii) treatment modalities, and (iii) frequency and duration of the services ordered; 4. Orders for medications, when applicable; and 5. Orders for special dietary or nutritional needs, when applicable. <p>The medical plan of care shall be approved and signed by the client's primary care physician.</p> <p>C. Verbal orders shall be documented within 24 consecutive hours in the client's record by the health care professional receiving the order and shall be countersigned by the prescribing person.</p> <p>D. The primary care physician shall be notified immediately of any changes in the client's condition that indicates a need to alter the medical plan of care.</p> <p>E. The medical plan of care shall be reviewed, approved, and signed by the primary care physician at least every 60 days.</p> <p>F. There shall be a director of skilled services, who shall be a physician licensed by the Virginia Board of Medicine or a registered nurse, responsible for the overall direction and management of skilled services including the availability of services, the quality of services and appropriate staffing. The individual shall have the appropriate experience for the scope of services provided by the organization.</p> <p>G. The organization shall develop and implement</p>	<ol style="list-style-type: none"> 2. Functional limitations; 3. Orders for all skilled services, including: (i) specific procedures, (ii) treatment modalities, and (iii) frequency and duration of the services ordered; 4. Orders for medications, when applicable; and 5. Orders for special dietary or nutritional needs, when applicable. <p>The medical plan of care shall be approved and signed by the client's primary care physician.</p> <p>C. Verbal orders shall be documented within 24 consecutive hours in the client's record by the health care professional receiving the order and shall be countersigned by the prescribing person.</p> <p>D. The primary care physician shall be notified immediately of any changes in the client's condition that indicates a need to alter the medical plan of care.</p> <p>E. The medical plan of care shall be reviewed, approved, and signed by the primary care physician at least every 60 days.</p> <p>F. There shall be a director of skilled services <u>director</u>, who shall be a <u>licensed physician licensed by the Virginia Board of Medicine</u> or a registered nurse, responsible for the overall direction and management of skilled services including the availability of services, the quality of services and appropriate staffing. The individual shall have the appropriate experience for the scope of services provided by the organization.</p> <p>G. The organization shall develop and implement policies and procedures for the handling of drugs and biologicals, including procurement, storage, administration, self-administration, and disposal of drugs and shall allow clients to procure their medications from a pharmacy of their choice.</p> <p>H. All prescription drugs shall be prescribed and properly dispensed to clients according to the provisions of Chapters 33 (§ 54.1-3300 et seq.) and 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code of Virginia and the</p>
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		<p>policies and procedures for the handling of drugs and biologicals, including procurement, storage, administration, self-administration, and disposal of drugs and shall allow clients to procure their medications from a pharmacy of their choice. H. All prescription drugs shall be prescribed and properly dispensed to clients according to the provisions of Chapters 33 (§ 54.1-3300 et seq.) and 34 (§ 54.1-3400et seq.) of Title 54.1 of the Code of Virginia and the regulations of the Virginia Board of Pharmacy, except for prescription drugs authorized by § 54.1-3408 of the Drug Control Act, such as epinephrine for emergency administration, normal saline and heparin flushes for the maintenance of IV lines, and adult immunizations, which may be given by a nurse pursuant to established protocol.</p>	<p>regulations of the Virginia Board of Pharmacy, except for prescription drugs authorized by § 54.1-3408 of the Drug Control Act, such as epinephrine for emergency administration, normal saline and heparin flushes for the maintenance of IV lines, and adult immunizations, which may be given by a nurse pursuant to established protocol. <u>I. The organization shall have a policy and procedure to prevent the occurrence of pressure sores or decubitus ulcers.</u> Intent: Removal of respiratory therapy services and medical social services from the Skilled services section as these services are not provided by any home care organizations currently licensed. Slight correcting language and the addition of a prevention program. Likely impact: Greater clarity of the regulations; better patient safety.</p>
<p>320- Therapy services</p>		<p>A. Physical therapy, occupational therapy, speech therapy, or respiratory therapy services shall be provided according to the medical plan of care by or under the direction of an appropriately qualified therapist currently licensed in Virginia and may include, but are not limited to: 1. Assessing client needs or admission for service as appropriate; 2. Implementing a medical plan of care and revising as necessary; 3. Initiating appropriate preventive, therapeutic, and rehabilitative techniques according to the medical plan of care; 4. Educating the client and family regarding treatment</p>	<p>A. Physical therapy, occupational therapy, <u>or</u> speech therapy, or respiratory therapy services shall be provided according to the medical plan of care by or under the direction of an appropriately qualified therapist currently licensed in Virginia and may include, but are not limited to: 1. Assessing client needs or admission for service as appropriate; 2. Implementing a medical plan of care and revising as necessary; 3. Initiating appropriate preventive, therapeutic, and rehabilitative techniques according to the medical plan of care; 4. Educating the client and family <u>the client's representative</u> regarding treatment modalities and use of equipment and devices; 5. Providing consultation to other</p>

		<p>modalities and use of equipment and devices; 5. Providing consultation to other health care professionals; 6. Communicating with the physician and other health care professionals regarding changes in the client's needs; 7. Supervising therapy assistants and home attendants as appropriate; and 8. Preparing clinical notes. B. Therapy assistants may be used to provide therapy services. 1. The occupational therapy assistant shall be currently certified by the National Board for Certification in Occupational Therapy and shall practice under the supervision of a licensed occupational therapist. 2. The physical therapy assistant shall be currently licensed by the Virginia Board of Physical Therapy and shall practice under the supervision of a licensed physical therapist. C. Duties of therapy assistants shall be within their scope of practice and may include, but are not limited to: 1. Performing services planned, delegated, and supervised by the appropriately licensed therapist; and 2. Preparing clinical notes. D. Supervision of services shall be provided as often as necessary as determined by the client's needs, the assessment of the licensed therapist, and the organization's written policies not to exceed 90 days.</p>	<p>health care professionals; 6. Communicating with the physician and other health care professionals regarding changes in the client's needs; 7. Supervising therapy assistants and home attendants as appropriate; and 8. Preparing clinical notes. B. Therapy assistants may be used to provide therapy services. 1. The occupational therapy assistant shall be currently certified <u>licensed</u> by the National Board for Certification <u>Board of Medicine in Occupational Therapy in accordance with § 54.1-2956.5 of the Code of Virginia</u> and shall practice under the supervision of a licensed occupational therapist. 2. The physical therapy assistant shall be currently licensed by the Virginia Board of Physical Therapy and shall practice under the supervision of a licensed physical therapist. C. Duties of therapy assistants shall be within their scope of practice and may include, but are not limited to: 1. Performing services planned, delegated, and supervised by the appropriately licensed therapist; and 2. Preparing clinical notes. D. Supervision of services shall be provided as often as necessary as determined by the client's needs, the assessment of the licensed therapist, <u>the licensing requirements of the therapy assistants</u>, and the organization's written policies not to exceed 90 days. Intent: Minor correction Likely impact: Greater clarity of the regulations.</p>
<p>340- Medical social services</p>		<p>A. Medical social services shall be provided according to the medical plan of care</p>	<p>A. Medical social services shall be provided according to the medical plan</p>

		<p>by or under the direction of a qualified social worker who holds, at a minimum, a bachelor's degree with major studies in social work, sociology, or psychology from a four-year college or university accredited by the Council on Social Work Education and has at least two years experience in case work or counseling in a health care or social services delivery system. The organization shall have one year from January 1, 2006, to ensure the designated individual meets the qualifications of this standard.</p> <p>B. The duties of a social worker may include, but are not limited to:</p> <ol style="list-style-type: none"> 1. Assessing the client's psychological status; 2. Implementing a medical plan of care and revising, as necessary; 3. Providing social work services including (i) short-term individual counseling, (ii) community resource planning, and (iii) crisis intervention; 4. Providing consultation with the primary care physician and other health care professionals regarding changes in the client's needs; 5. Preparing notes on the care or services provided; and 6. Participating in discharge planning. 	<p>of care by or under the direction of a qualified social worker who holds, at a minimum, a bachelor's degree with major studies in social work, sociology, or psychology from a four-year college or university accredited by the Council on Social Work Education and has at least two years experience in case work or counseling in a health care or social services delivery system. <u>The organization shall maintain documentation of the social worker's qualifications.</u></p> <p>The organization shall have one year from January 1, 2006, to ensure the designated individual meets the qualifications of this standard.</p> <p>B. The duties of a social worker may include, but are not limited to:</p> <ol style="list-style-type: none"> 1. Assessing the client's psychological status; 2. Implementing a medical plan of care and revising, as necessary; 3. Providing social work services including (i) short-term individual counseling, (ii) community resource planning, and (iii) crisis intervention; 4. Providing consultation with the primary care physician and other health care professionals regarding changes in the client's needs; 5. Preparing notes on the care or services provided; and 6. Participating in discharge planning. <p>Intent: Minor clarifying language. Removal of dated language. Likely impact: Greater clarity of the regulations.</p>
<p>350- <u>Pharmacy services Medication administration</u></p>		<p>A. All prescription drugs shall be prescribed and properly dispensed to the client according to the provisions of the Chapters 33 (§ 54.1-3300 et seq.) and 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code of Virginia and the regulations of the Virginia Board of Pharmacy, except for</p>	<p>A. All prescription drugs shall be prescribed and properly dispensed to the client according to the provisions of the Chapters 33 (§ 54.1-3300 et seq.) and 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code of Virginia and the regulations of the Virginia Board of Pharmacy, except for prescription drugs authorized by § 54.1-3408 of the Drug Control Act, such as epinephrine for emergency administration, normal</p>

		<p>prescription drugs authorized by § 54.1-3408 of the Drug Control Act, such as epinephrine for emergency administration, normal saline and heparin flushes for the maintenance of IV lines, and adult immunizations, which may be given by a nurse pursuant to established protocol.</p> <p>B. Home attendants may administer normally self-administered drugs as allowed by § 54.1-3408 of the Virginia Drug Control Act (Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code of Virginia). Any other drug shall be administered only by a licensed nurse or physician assistant.</p> <p>C. The organization shall develop written policies and procedures for the administration of home infusion therapy medications that include, but are not limited to:</p> <ol style="list-style-type: none"> 1. Developing a plan of care or service; 2. Initiation of medication administration based on a prescriber's order and monitoring of the client for response to the treatment and any adverse reactions or side effects; 3. Assessment of any factors related to the home environment that may affect the prescriber's decisions for initiating, modifying, or discontinuing medications; 4. Communication with the prescriber concerning assessment of the client's response to therapy, any other client specific needs, and any significant change in the client's condition; 5. Communication with the client's provider pharmacy concerning problems or needed changes in a client's 	<p>saline and heparin flushes for the maintenance of IV lines, and adult immunizations, which may be given by a nurse pursuant to established protocol.</p> <p>B. Home attendants may administer normally self-administered drugs as allowed by § 54.1-3408 of the Virginia Drug Control Act (Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code of Virginia). Any other drug shall be administered only by a licensed <u>physician</u>, nurse or physician assistant.</p> <p>C. The organization shall develop written policies and procedures for the administration of home infusion therapy medications that include, but are not limited to:</p> <ol style="list-style-type: none"> 1. Developing a plan of care or service; 2. Initiation of medication administration based on a prescriber's order and monitoring of the client for response to the treatment and any adverse reactions or side effects; 3. Assessment of any factors related to the home environment that may affect the prescriber's decisions for initiating, modifying, or discontinuing medications; 4. Communication with the prescriber concerning assessment of the client's response to therapy, any other client specific needs, and any significant change in the client's condition; 5. Communication with the client's provider pharmacy concerning problems or needed changes in a client's medication; 6. Maintaining a complete and accurate record of medications prescribed, medication administration data, client assessments, any laboratory tests ordered to monitor response to drug therapy and results, and communications with the prescriber and pharmacy provider; 7. Educating or instructing the client, family members, or other caregivers involved in the administration of infusion therapy in the proper storage of medication, in the proper handling of supplies and equipment,
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		<p>medication;</p> <p>6. Maintaining a complete and accurate record of medications prescribed, medication administration data, client assessments, any laboratory tests ordered to monitor response to drug therapy and results, and communications with the prescriber and pharmacy provider;</p> <p>7. Educating or instructing the client, family members, or other caregivers involved in the administration of infusion therapy in the proper storage of medication, in the proper handling of supplies and equipment, in any applicable safety precautions, in recognizing potential problems with the client, and actions to take in an emergency; and</p> <p>8. Initial and retraining of all organization staff providing infusion therapy.</p> <p>D. The organization shall employ a registered nurse, who has completed training in infusion therapy, and has the knowledge, skills, and competencies to safely administer infusion therapy, to supervise medication administration by staff. This person shall be responsible for ensuring compliance with applicable laws and regulations, adherence to the policies and procedures related to administration of medications, and conducting periodic assessments of staff competency in performing infusion therapy.</p>	<p>in any applicable safety precautions, in recognizing potential problems with the client, and actions to take in an emergency; and</p> <p>8. Initial and retraining of all organization staff providing infusion therapy.</p> <p>D. The organization shall employ a registered nurse, who has completed training in infusion therapy, and has the knowledge, skills, and competencies to safely administer infusion therapy, to supervise medication administration by staff. This person shall be responsible for ensuring compliance with applicable laws and regulations, adherence to the policies and procedures related to administration of medications, and conducting periodic assessments of staff competency in performing infusion therapy.</p> <p>Intent: Renamed the section to more accurately reflect the content of the section. Likely impact: Greater clarity of the regulations.</p>
<p>355- <u>Discharge Termination</u></p>		<p>N/A</p>	<p><u>A. There shall be a discharge or termination summary which will provide a final written summary filed in a client record of the services delivered and final disposition at the time of the client's discharge or termination from service.</u></p> <p><u>B. A registered nurse or qualified social</u></p>

			<p><u>worker shall develop or supervise the development of the discharge or termination summary.</u></p> <p>Intent: New section. Previously the term discharge summary was defined but not utilized within the regulatory chapter. This section takes the elements of the definition and puts them into regulation. Likely impact: Greater clarity of the regulations. Greater patient protection.</p>
<p>360-Personal care services</p>		<p>A. An organization may provide personal care services in support of the client's health and safety in his home. The organization shall designate a registered nurse responsible for the supervision of personal care services.</p> <p>B. The personal care services shall include:</p> <ol style="list-style-type: none"> 1. Assistance with the activities of daily living. A need for assistance exists when the client is unable to complete an activity due to cognitive impairment, functional disability, physical health problems, or safety. The client's functional level is based on the client's need for assistance most or all of the time to perform the tasks of daily living in order to live independently; 2. Administration of normally self-administered drugs as allowed in § 54.1-3408 of the Virginia Drug Control Act (Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code of Virginia); 3. Taking and recording vital signs, if specified in the plan of service; 4. Recording and reporting to the supervisor any changes regarding the client's condition, behavior or appearance; and 5. Documenting the services delivered in the client's record. <p>Personal care services may</p>	<p>A. An organization may provide personal care services in support of the client's health and safety in his home <u>residence</u>. The organization shall designate a registered nurse responsible for the supervision <u>coordination</u> of personal care services.</p> <p>B. The personal care services shall include:</p> <ol style="list-style-type: none"> 1. Assistance with the activities of daily living. A need for assistance exists when the client is unable to complete an activity due to cognitive impairment, functional disability, physical health problems, or safety. The client's functional level is based on the client's need for assistance most or all of the time to perform the tasks of daily living in order to live independently; 2. Administration of normally self-administered drugs as allowed in § 54.1-3408 of the Virginia Drug Control Act (Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code of Virginia); 3. Taking and recording vital signs, if specified in the plan of service; 4. Recording and reporting to the supervisor any changes regarding the client's condition, behavior or appearance; and 5. Documenting the services delivered in the client's record. <p>Personal care services may also include the instrumental activities of daily living related to the needs of the client.</p> <p>C. Such services shall be delivered based on a written plan of services</p>

		<p>also include the instrumental activities of daily living related to the needs of the client.</p> <p>C. Such services shall be delivered based on a written plan of services developed by a registered nurse, in collaboration with the client and client's family. The plan shall include at least the following:</p> <ol style="list-style-type: none"> 1. Assessment of the client's needs; 2. Functional limitations of the client; 3. Activities permitted; 4. Special dietary needs; 5. Specific personal care services to be performed; and 6. Frequency of service. <p>D. The plan shall be retained in the client's record. Copies of the plan shall be provided to the client receiving services and reviewed with the assigned home attendant prior to delivering services.</p> <p>E. Supervision of services shall be provided as often as necessary as determined by the client's needs, the assessment of the registered nurse, and the organization's written policies not to exceed 90 days.</p> <p>F. A registered nurse or licensed practical nurse shall be available during all hours that personal care services are being provided.</p> <p>G. Home attendants providing personal care services shall receive at least 12 hours annually of inservice training and education. Inservice training may be in conjunction with on-site supervision.</p>	<p>developed by a registered nurse, in collaboration with the <u>active participation of the client and client's family representative</u>. The plan shall include at least the following:</p> <ol style="list-style-type: none"> 1. Assessment of the client's needs; 2. Functional limitations of the client; 3. Activities permitted; 4. Special dietary needs; 5. Specific personal care services to be performed; and 6. Frequency of service. <p>D. The plan shall be retained in the client's record. Copies of the plan shall be provided to the client receiving services and reviewed with the assigned home attendant prior to delivering services.</p> <p>E. Supervision of services-home attendants shall be provided as often as necessary as determined by the client's needs, the assessment of the registered nurse, and <u>according to the organization's written policies not to exceed 90 120 days. Such supervision may be provided by a qualified licensed practical nurse.</u></p> <p>F. A registered nurse or licensed practical nurse shall be available during all hours that personal care services are being provided.</p> <p>G. Home attendants providing personal care services shall receive at least 12 hours annually of inservice training and education. Inservice training may be in conjunction with on-site supervision.</p> <p>Intent: Minor clarifying language; integration of a policy document into the regulations. Likely impact: Greater clarity and accuracy of the regulations.</p>
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