Office of Regulatory Management

Economic Review Form

Agency name	State Board of Health
Virginia Administrative Code (VAC) Chapter citation(s)	12VAC5-381-10 *et seq.*
VAC Chapter title(s)	Regulations for the Licensure of Home Care Organizations
Action title	Amend the Regulation after Enactment of Chapter 470 (2021 Acts of Assembly, Special Session I)
Date this document prepared	March 27, 2023
Regulatory Stage (including Issuance of Guidance Documents)	Proposed

Cost Benefit Analysis

Table 1a: Costs and Benefits of the Proposed Changes (Primary Option)

(1) Direct & Indirect Costs & Benefits (Monetized)	• Minimum documentation requirements for each visit in the client record or patient record o Direct Costs (monetized): As home care organizations (HCOs) are already required to document the services delivered, specifying that documenting must include the date of services, who delivered services, and the type of services delivered is anticipated to cost an additional $0 per HCO, as this can be absorbed within an HCO's existing resources. o Direct Benefits (monetized): VDH is not aware of any monetized direct benefits currently. o Indirect Costs (monetized): VDH is not aware of any monetized indirect costs currently. o Indirect Benefits (monetized): VDH is not aware of any monetized indirect benefits currently. • Review of the plan of care between the home care attendant and their supervisor must be documented in writing o Direct Costs: As HCOs are already required to review the plan of care with home care attendants prior to delivering services, requiring that review to be documented is anticipated to cost an additional $0 per HCO, as this can be absorbed within an HCO's existing resources.

    - Direct Benefits (monetized): VDH is not aware of any monetized direct benefits currently.
    - Indirect Costs (monetized): VDH is not aware of any monetized indirect costs currently.
    - Indirect Benefits (monetized): VDH is not aware of any monetized indirect benefits currently.

- HCOs must tell clients and patients orally and in writing of the right to refuse or withdraw consent for remote interactive audio and video supervision
    - Direct Costs (monetized): As HCOs are already required to make several disclosures to clients and patients, including this additional disclosure is anticipated to cost an additional $0 per HCO, as this can be absorbed within an HCO’s existing resources.
    - Direct Benefits (monetized): VDH is not aware of any monetized direct benefits currently.
    - Indirect Costs (monetized): VDH is not aware of any monetized indirect costs currently.
    - Indirect Benefits (monetized): VDH is not aware of any monetized indirect benefits currently.

- HCOs must obtain separate consent from clients and patients to record, store, or utilize recordings for non-care-related uses, except as otherwise required by law
    - Direct Costs (monetized): As HCOs are already required to make several disclosures to clients and patients and obtain informed consent as part of providing care, including this additional disclosure and informed consent is anticipated to cost an additional $0 per HCO, as this can be absorbed within an HCO’s existing resources.
    - Direct Benefits (monetized): VDH is not aware of any monetized direct benefits currently.
    - Indirect Costs (monetized): VDH is not aware of any monetized indirect costs currently.
    - Indirect Benefits (monetized): VDH is not aware of any monetized indirect benefits currently.

Other Direct Costs (monetized): VDH is not aware of any other monetized direct costs currently.

Other Direct Benefits (monetized): VDH is not aware of any other monetized direct benefits currently.

Other Indirect Costs (monetized): VDH is not aware of any other monetized indirect costs currently.

	Other Indirect Benefits (monetized): VDH is not aware of any other monetized indirect benefits currently.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) $0	(b) $0
(3) Net Monetized Benefit	$0	
(4) Other Costs & Benefits (Non-Monetized)	• Minimum documentation requirements for each visit in the client record or patient record o Other Costs (non-monetized): VDH is not aware of any non-monetized costs. o Other Benefits (non-monetized): Documentation of service provided reduces likelihood of fraud and increases likelihood that an HCO is adhering to a client or patient's plan of care. It also helps HCOs demonstrate compliance during biennial inspections and complaint inspections. • Review of the plan of care between the home care attendant and their supervisor must be documented in writing o Other Costs (non-monetized): VDH is not aware of any non-monetized costs. o Other Benefits (non-monetized): Documenting review of the plan of care with the home care attendant increases the likelihood that the home care attendant will provide the services call for in the plan and be held accountable if they do not. It also helps HCOs demonstrate compliance during biennial inspections and complaint inspections. • HCOs must tell clients and patients orally and in writing of the right to refuse or withdraw consent for remote interactive audio and video supervision o Other Costs (non-monetized): VDH is not aware of any non-monetized costs. o Other Benefits (non-monetized): Clients and patients will be fully informed of their rights as a client or patient of an HCO. • HCOs must obtain separate consent from clients and patients to record, store, or utilize recordings for non-care-related uses, except as otherwise required by law o Other Costs (non-monetized): VDH is not aware of any non-monetized costs.	

	o Other Benefits (non-monetized): Clients and patients will be fully informed of their rights as a client or patient of an HCO. • Registered nurses (RNs) must include frequency of supervision, whether remote supervision is an acceptable alternate to in-person on-site supervision, and rationale for remote supervision o Other Costs (non-monetized): VDH is not aware of any non-monetized costs. o Other Benefits (non-monetized): RNs, who would be most familiar with a client's or patient's needs via their assessments and reassessments, are more able to make decision whether remote supervision is appropriate given the services needed. • RNs should reassess a client or patient every 60 days o Other Costs (non-monetized): RNs already to have to assess patients and clients every 90 days; this proposed change would reduce the interval to 60 days, consistent with federal requirements for home health agencies. VDH does not have sufficient data to estimate the total volume of HCO clients and patients, the average or median length of the client or patient relationship with HCOs, or the average distance an RN must drive to reach a client or patient; therefore, VDH cannot estimate the cost. However, using the wage information from the May 2021 BLS for RNs (Code 29-1141) in home health care services, we estimate that the hourly rate of an RN is $51.99 per hour, including fringe benefits based on September 2022 BLS for the South Atlantic area. Assuming a patient or client was with an HCO for an entire year, that would currently be 1 assessment plus 3 reassessments. Moving to a 60-day interval would be 1 assessment plus 5 reassessments (i.e., 2 additional reassessments). Assuming that reassessment would take 45 minutes per client or patient, this would be an additional cost of $39 per client or patient per fourth reassessment or any subsequent reassessment thereafter. o Other Benefits (non-monetized): The change would bring HCOs into alignment with federal requirements for home health agencies. Aligning reassessment frequency with federal requirements will make it easier for HCOs to acquire federal certification as a home health agency or to become accredited—either option then allowing them to apply for an exemption from licensure and ongoing licensure fees. • Licensed practical nurses (LPNs) may supervise home care attendants o Other Costs (non-monetized): As HCOs would be given the option to use either RNs or LPNs, VDH cannot quantify the cost of this change as it does not have sufficient data to estimate how

many HCOs will choose to use LPNs for supervision; HCOs using LPNs for supervision would likely have reduced personnel costs since the wage information from the May 2021 BLS for LPNs (Code 29-2061) in home health care services is $35.02 per hour (including fringe benefits), compared to $51.99 per hour for RNs (Code 29-1141) in home health services. Fringe benefits are based on September 2022 BLS for the South Atlantic area.
    - Other Benefits (non-monetized): VDH is not aware of any non-monetized benefit currently.

- The client or patient may refuse or withdraw consent for remote interactive audio and video supervision
    - Other Costs (non-monetized): As remote supervision is new, VDH cannot quantify the cost of this change as it does not have sufficient data to estimate how many clients or patients will choose to refuse or withdraw consent for remote supervision. Additionally, VDH does not have data about how much cost savings, if any, there will be for HCOs; while they may save on travel with remote supervision, they may also have to expend capital on remote supervision technologies and ongoing costs in support of those technologies.
    - Other Benefits (non-monetized): Clients or patients can prioritize privacy in their own home.

- HCOs cannot decrease frequency of supervision because a client or patient has refused or withdrawn consent for remote interactive audio and video supervision
    - Other Costs (non-monetized): As remote supervision is new, VDH cannot quantify the cost of this change as it does not have sufficient data to estimate how many clients' or patients' care will be assessed as appropriate for remote supervision or how many clients or patients will choose to refuse or withdraw consent for remote supervision, which would result in having to conduct supervision in-person. Additionally, VDH does not have data about how much cost savings, if any, there will be for HCOs; while they may save on travel with remote supervision, they may also have to expend capital on remote supervision technologies and ongoing costs in support of those technologies.
    - Other Benefits (non-monetized): Clients or patients will not be penalized for prioritizing privacy in their own home.

- Set the interval at which remote interactive audio (15 days) and video (30 days) supervision must take place
    - Other Costs (non-monetized): As remote supervision is new, VDH cannot quantify the cost of this change as it does not have

	sufficient data to estimate how many clients' or patients' care will be assessed as appropriate for remote supervision. Additionally, VDH does not have data about how much cost savings, if any, there will be for HCOs; while they may save on travel with remote supervision, they may also have to expend capital on remote supervision technologies and ongoing costs in support of those technologies. o Other Benefits (non-monetized): Specifying more frequent supervision if conducted through audio or visual means ensures that the lack of in-person visitation does not compromise client or patient health and safety. • Minimum documentation information about supervision must be documented in the client record or patient record o Other Costs (non-monetized): Because HCOs would have the option to use either LPNs or RNs for supervision, VDH cannot quantify the cost of this change as it does not have sufficient data to estimate which type of supervisor an HCO will choose, how many home care attendants need to be supervised, what supervisor-to-home-care-attendant ratio an HCO may use, or how many clients or patients an HCO has. Documenting the time, date, duration, and type of supervision should take no more than 10 minutes per service visit, which would be a cost of $8.67 per client or patient per service visit if an RN was used or $5.84 per client or patient per service visit if an LPN was used. This information was calculated using the the wage information from the May 2021 BLS for LPNs (Code 29-2061) in home health care services and RNs (Code 29-1141) in home health services. Fringe benefits are based on September 2022 BLS for the South Atlantic area. o Other Benefits (non-monetized): Documentation of supervision provided reduces likelihood of fraud and increases likelihood that an HCO is adhering to regulatory requirements. It also helps HCOs demonstrate compliance during biennial inspections and complaint inspections.
(5) Information Sources	VDH has numerous challenges and constraints that limit a cost benefit analysis, including limited data availability and insufficient analytical models. To the extent costs and benefits could be calculated, VDH used information from the U.S. Bureau of Labor Statistics, VDH historical records, the current number of HCOs licensee, and anecdotal information from its inspectors (who themselves are health care practitioners such as RNs).

Table 1b: Costs and Benefits under the Status Quo (No change to the regulation)

<table>
<tr><td>(1) Direct & Indirect Costs & Benefits (Monetized)</td><td colspan="2">Other Direct Costs (monetized): VDH is not aware of any other monetized direct costs currently.

Other Direct Benefits (monetized): VDH is not aware of any other monetized direct benefits currently.

Other Indirect Costs (monetized): VDH is not aware of any other monetized indirect costs currently.

Other Indirect Benefits (monetized): VDH is not aware of any other monetized indirect benefits currently.</td></tr>
<tr><td colspan="3"></td></tr>
<tr><td>(2) Present Monetized Values</td><td>Direct & Indirect Costs</td><td>Direct & Indirect Benefits</td></tr>
<tr><td></td><td>(a) $0</td><td>(b) $0</td></tr>
<tr><td>(3) Net Monetized Benefit</td><td colspan="2">$0</td></tr>
<tr><td colspan="3"></td></tr>
<tr><td>(4) Other Costs & Benefits (Non-Monetized)</td><td colspan="2">Minimum documentation requirements for each visit includes documenting the services delivered
Other Costs (non-monetized): VDH does not have sufficient data about the number of clients and patients or the average or median annual service visits, so it cannot calculate the cost of this requirement.
Other Benefits (non-monetized): Documentation of service provided reduces likelihood of fraud and increases likelihood that an HCO is adhering to a client of patient’s plan of care.
Review of the plan of care between the home care attendant and their supervisor must occur
Other Costs (non-monetized): VDH does not have sufficient data about the number of clients and patients, or the number of home care attendants employed or contracted, so it cannot calculate the cost of this requirement.
Other Benefits (non-monetized): Reviewing the plan of care with the home care attendant increases the likelihood that the home care attendant will provide the services call for in the plan.
In-person supervision is required
Other Costs (non-monetized): VDH does not have sufficient data about the number of clients and patients or the average or</td></tr>
</table>

	median travel costs of HCOs, so it cannot calculate the cost of this requirement. o Other Benefits (non-monetized): As clients and patients are allowing strangers into their homes at a time in which they need assistance with their care, in-person supervision gives the client or patient the opportunity to speak directly with supervisors about concerns they may have without having the home care attendant as an intermediary (who may, intentionally or unintentionally, distort or omit information the client or patient wishes to provide). It also allows the supervisor an unobstructed, unfiltered view of the care being provided and allows for correction in real-time through demonstration by the supervisor. • Supervision must be an RN o Other Costs (non-monetized): VDH does not have sufficient data about the number RNs employed or contracted to provide supervision and the average or median hours of supervision provided by RNs working for HCOs, so it cannot calculate the cost of this requirement. Using the wage information from the May 2021 BLS for RNs (Code 29-1141) in home health care services, it would cost an HCO $51.99 per hour for an RNs (including fringe benefits). Fringe benefits are based on September 2022 BLS for the South Atlantic area. o Other Benefits (non-monetized): RNs have a wider scope of practice than LPNs and have the authority to delegate certain nursing tasks and procedures. LPNs provide basic nursing care under the direction of an RN, licensed medical practitioner, or licensed dentist. • Reassessment occurs every 90 days o Other Costs (non-monetized): VDH does not have sufficient data to estimate the total volume of HCO clients and patients, the average or median length of the client or patient relationship with HCOs, or the average distance an RN must drive to reach a client or patient; therefore, VDH cannot estimate the direct cost. However, using the wage information from the May 2021 BLS for RNs (Code 29-1141) in home health care services, we estimate that the hourly rate of an RN is $51.99 per hour, including fringe benefits based on September 2022 BLS for the South Atlantic area. Assuming a patient or client was with an HCO for an entire year, that would currently be 1 assessment plus 3 reassessments. Assuming that reassessment would take 45 minutes per client or patient, this would be a cost of $39 per client or patient per reassessment.

	◦ Other Benefits (non-monetized): As it is unlikely that a client's or patient's needs would remain static, periodic reassessment is required to ensure that the services being provided are responsive to the client's or patient's needs.
(5) Information Sources	VDH has numerous challenges and constraints that limit a cost benefit analysis, including limited data availability and insufficient analytical models. To the extent costs and benefits could be calculated, VDH used information from the U.S. Bureau of Labor Statistics, VDH historical records, the current number of HCOs licensee, and anecdotal information from its inspectors (who themselves are health care practitioners such as RNs).

Table 1c: Costs and Benefits under Alternative Approach(es)

(1) Direct & Indirect Costs & Benefits (Monetized)	Other Direct Costs (monetized): VDH is not aware of any other monetized direct costs currently. Other Direct Benefits (monetized): VDH is not aware of any other monetized direct benefits currently. Other Indirect Costs (monetized): VDH is not aware of any other monetized indirect costs currently Other Indirect Benefits (monetized): VDH is not aware of any other monetized indirect benefits currently.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) $0	(b) $0
(3) Net Monetized Benefit	$0	
(4) Other Costs & Benefits (Non-Monetized)	• Reassessment occurs every 90 days ◦ Other Costs (non-monetized): VDH does not have sufficient data to estimate the total volume of HCO clients and patients, the average or median length of the client or patient relationship with HCOs, or the average distance an RN must drive to reach a client or patient; therefore, VDH cannot estimate the direct cost. However, using the wage information from the May 2021 BLS for RNs (Code 29-1141) in home health care services, we estimate that the hourly rate of an RN is $51.99 per hour,	

	including fringe benefits based on September 2022 BLS for the South Atlantic area. Assuming a patient or client was with an HCO for an entire year, that would currently be 1 assessment plus 3 reassessments. Assuming that reassessment would take 45 minutes per client or patient, this would be a cost of $39 per client or patient per reassessment. o Other Benefits (non-monetized): As it is unlikely that a client's or patient's needs would remain static, periodic reassessment is required to ensure that the services being provided are responsive to the client's or patient's needs. • Registered nurses (RNs) do not include frequency of supervision and whether remote supervision is an acceptable alternate to in-person on-site supervision o Other Costs (non-monetized): As RNs already to have to assess patients and clients, including frequency and type of supervision in their assessment is estimated to take an additional 10 minutes per patient or resident. Eliminating this requirement would be o Other Benefits (non-monetized): HCOs would have discretion to use remote supervision regardless of the appropriateness of that type of supervision for the complexity and scope of a client's or patient's needs. • RNs should reassess a client or patient every 75 days o Other Costs (non-monetized): RNs already to have to assess patients and clients every 90 days; this proposed change would reduce the interval to 75 days, consistent with federal requirements for home health agencies. VDH does not have sufficient data to estimate the total volume of HCO clients and patients, the average or median length of the client or patient relationship with HCOs, or the average distance an RN must drive to reach a client or patient; therefore, VDH cannot estimate the direct cost. However, using the wage information from the May 2021 BLS for RNs (Code 29-1141) in home health care services, we estimate that the hourly rate of an RN is $51.99 per hour, including fringe benefits based on September 2022 BLS for the South Atlantic area. Assuming a patient or client was with an HCO for an entire year, that would currently be 1 assessment plus 3 reassessments. Moving to a 60-day interval would be 1 assessment plus 4 reassessments (i.e., 2 additional reassessments). Assuming that reassessment would take 45 minutes per client or patient, this would be an additional cost of $39 per client or patient per fourth reassessment or any subsequent reassessment thereafter. o Other Benefits (non-monetized): The change would bring HCOs into closer, but not full, alignment with federal requirements for

	home health agencies. This might make it easier for HCOs to acquire federal certification as a home health agency or to become accredited—either option then allowing them to apply for an exemption from licensure.
	
	• HCOs can decrease frequency of supervision because a client or patient has refused or withdrawn consent for remote interactive audio and video supervision
	  o Other Costs (non-monetized): As remote supervision is new, VDH cannot quantify the cost of this change as it does not have sufficient data to estimate how many clients or patients could be subject to remote supervision or how many clients or patients would otherwise choose to refuse or withdraw consent for remote supervision, which would result in having to conduct supervision in-person. Additionally, VDH does not have data about how much cost savings, if any, there will be for HCOs; while they may save on travel with remote supervision, they may also have to expend capital on remote supervision technologies and ongoing costs in support of those technologies.
	  o Other Benefits (non-monetized): HCOs can prioritize profit when clients or patients are uncooperative with remote supervision attempts.
	
	• Set the interval at which remote interactive audio (30 days) and video (45 days) supervision must take place
	  o Other Costs (non-monetized): As remote supervision is new, VDH cannot quantify the cost of this change as it does not have sufficient data to estimate how many clients' or patients' care will be assessed as appropriate for remote supervision. Additionally, VDH does not have data about how much cost savings, if any, there will be for HCOs; while they may save on travel with remote supervision, they may also have to expend capital on remote supervision technologies and ongoing costs in support of those technologies.
	  o Other Benefits (non-monetized): Specifying more frequent supervision if conducted through audio or visual means ensures that the lack of in-person visitation does not compromise client or patient health and safety.

(5) Information Sources	VDH has numerous challenges and constraints that limit a cost benefit analysis, including limited data availability and insufficient analytical models. To the extent costs and benefits could be calculated, VDH used information from the U.S. Bureau of Labor Statistics, VDH historical

	records, the current number of HCOs licensee, and anecdotal information from its inspectors (who themselves are health care practitioners such as RNs).

Impact on Local Partners

Table 2: Impact on Local Partners

(1) Direct & Indirect Costs & Benefits (Monetized)	VDH is not aware of any monetized direct costs, indirect costs, direct benefits, or indirect benefits for local partners currently.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) $0	(b) $0
(3) Other Costs & Benefits (Non-Monetized)	VDH is not aware of any non-monetized costs or benefits for local partners currently.	
(4) Assistance	None.	
(5) Information Sources	VDH has numerous challenges and constraints that limit a cost benefit analysis, including limited data availability and insufficient analytical models. To the extent costs and benefits could be calculated, VDH used information from the U.S. Bureau of Labor Statistics, VDH historical records, the current number of HCOs licensee, and anecdotal information from its inspectors (who themselves are health care practitioners such as RNs).	

Impacts on Families

Table 3: Impact on Families

(1) Direct & Indirect Costs & Benefits (Monetized)	Direct Costs: VDH is not aware of any monetized direct costs to families currently. Indirect Costs: VDH is not aware of any monetized indirect costs to families currently. Direct Benefits: VDH is not aware of any monetized direct benefits to families currently.

	Indirect Benefits: VDH is not aware of any monetized indirect benefits to families currently.

(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) $0	(b) $0

(3) Other Costs & Benefits (Non-Monetized)	Other Costs: VDH is not aware of any non-monetized costs to families currently. Other Benefits: VDH is not aware of any non-monetized benefits to families currently.
(4) Information Sources	VDH has numerous challenges and constraints that limit a cost benefit analysis, including limited data availability and insufficient analytical models. To the extent costs and benefits could be calculated, VDH used information from the U.S. Bureau of Labor Statistics, VDH historical records, the current number of HCOs licensee, and anecdotal information from its inspectors (who themselves are health care practitioners such as RNs).

Impacts on Small Businesses

Table 4: Impact on Small Businesses

(1) Direct & Indirect Costs & Benefits (Monetized)	• Minimum documentation requirements for each visit in the client record or patient record o Direct Costs (monetized): As home care organizations (HCOs) are already required to document the services delivered, specifying that documenting must include the date of services, who delivered services, and the type of services delivered is anticipated to cost an additional $0 per HCO, as this can be absorbed within an HCO's existing resources. o Direct Benefits (monetized): VDH is not aware of any monetized direct benefits currently. o Indirect Costs (monetized): VDH is not aware of any monetized indirect costs currently. o Indirect Benefits (monetized): VDH is not aware of any monetized indirect benefits currently. • Review of the plan of care between the home care attendant and their supervisor must be documented in writing o Direct Costs: As HCOs are already required to review the plan of care with home care attendants prior to delivering services, requiring that review to be documented is anticipated to cost an

	additional $0 per HCO, as this can be absorbed within an HCO's existing resources. o Direct Benefits (monetized): VDH is not aware of any monetized direct benefits currently. o Indirect Costs (monetized): VDH is not aware of any monetized indirect costs currently. o Indirect Benefits (monetized): VDH is not aware of any monetized indirect benefits currently. • HCOs must tell clients and patients orally and in writing of the right to refuse or withdraw consent for remote interactive audio and video supervision o Direct Costs (monetized): As HCOs are already required to make several disclosures to clients and patients, including a single additional disclosure is anticipated to cost an additional $0 per HCO, as this can be absorbed within an HCO's existing resources. o Direct Benefits (monetized): VDH is not aware of any monetized direct benefits currently. o Indirect Costs (monetized): VDH is not aware of any monetized indirect costs currently. o Indirect Benefits (monetized): VDH is not aware of any monetized indirect benefits currently. • HCOs must obtain separate consent from clients and patients to record, store, or utilize recordings for non-care-related uses, except as otherwise required by law o Direct Costs (monetized): As HCOs are already required to make several disclosures to clients and patients and obtain informed consent as part of providing care, including this additional disclosure and informed consent is anticipated to cost an additional $0 per HCO, as this can be absorbed within an HCO's existing resources. o Direct Benefits (monetized): VDH is not aware of any monetized direct benefits currently. o Indirect Costs (monetized): VDH is not aware of any monetized indirect costs currently. o Indirect Benefits (monetized): VDH is not aware of any monetized indirect benefits currently. Other Direct Costs (monetized): VDH is not aware of any other monetized direct costs currently. Other Direct Benefits (monetized): VDH is not aware of any other monetized direct benefits currently.

	Other Indirect Costs (monetized): VDH is not aware of any other monetized indirect costs currently. Other Indirect Benefits (monetized): VDH is not aware of any other monetized indirect benefits currently.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) $0	(b) $0

(3) Other Costs & Benefits (Non-Monetized)	• Minimum documentation requirements for each visit in the client record or patient record
	  o Other Costs (non-monetized): VDH is not aware of any non-monetized costs.
	  o Other Benefits (non-monetized): Documentation of service provided reduces likelihood of fraud and increases likelihood that an HCO is adhering to a client or patient's plan of care. It also helps HCOs demonstrate compliance during biennial inspections and complaint inspections.
	
	• Review of the plan of care between the home care attendant and their supervisor must be documented in writing
	  o Other Costs (non-monetized): VDH is not aware of any non-monetized costs.
	  o Other Benefits (non-monetized): Documenting review of the plan of care with the home care attendant increases the likelihood that the home care attendant will provide the services call for in the plan and be held accountable if they do not. It also helps HCOs demonstrate compliance during biennial inspections and complaint inspections.
	
	• HCOs must tell clients and patients orally and in writing of the right to refuse or withdraw consent for remote interactive audio and video supervision
	  o Other Costs (non-monetized): VDH is not aware of any non-monetized costs.
	  o Other Benefits (non-monetized): Clients and patients will be fully informed of their rights as a client or patient of an HCO.
	
	• HCOs must obtain separate consent from clients and patients to record, store, or utilize recordings for non-care-related uses, except as otherwise required by law
	  o Other Costs (non-monetized): VDH is not aware of any non-monetized costs.	

	o Other Benefits (non-monetized): Clients and patients will be fully informed of their rights as a client or patient of an HCO. • Registered nurses (RNs) must include frequency of supervision, whether remote supervision is an acceptable alternate to in-person on-site supervision, and rationale for remote supervision o Other Costs (non-monetized): VDH is not aware of any non-monetized costs. o Other Benefits (non-monetized): RNs, who would be most familiar with a client's or patient's needs via their assessments and reassessments, are more able to make decision whether remote supervision is appropriate given the services needed. • RNs should reassess a client or patient every 60 days o Other Costs (non-monetized): RNs already to have to assess patients and clients every 90 days; this proposed change would reduce the interval to 60 days, consistent with federal requirements for home health agencies. VDH does not have sufficient data to estimate the total volume of HCO clients and patients, the average or median length of the client or patient relationship with HCOs, or the average distance an RN must drive to reach a client or patient; therefore, VDH cannot estimate the cost. However, using the wage information from the May 2021 BLS for RNs (Code 29-1141) in home health care services, we estimate that the hourly rate of an RN is $51.99 per hour, including fringe benefits based on September 2022 BLS for the South Atlantic area. Assuming a patient or client was with an HCO for an entire year, that would currently be 1 assessment plus 3 reassessments. Moving to a 60-day interval would be 1 assessment plus 5 reassessments (i.e., 2 additional reassessments). Assuming that reassessment would take 45 minutes per client or patient, this would be an additional cost of $39 per client or patient per fourth reassessment or any subsequent reassessment thereafter. o Other Benefits (non-monetized): The change would bring HCOs into alignment with federal requirements for home health agencies. Aligning reassessment frequency with federal requirements will make it easier for HCOs to acquire federal certification as a home health agency or to become accredited—either option then allowing them to apply for an exemption from licensure and ongoing licensure fees. • Licensed practical nurses (LPNs) may supervise home care attendants o Other Costs (non-monetized): As HCOs would be given the option to use either RNs or LPNs, VDH cannot quantify the cost of this change as it does not have sufficient data to estimate how

	many HCOs will choose to use LPNs for supervision; HCOs using LPNs for supervision would likely have reduced personnel costs since the wage information from the May 2021 BLS for LPNs (Code 29-2061) in home health care services is $35.02 per hour (including fringe benefits), compared to $51.99 per hour for RNs (Code 29-1141) in home health services. Fringe benefits are based on September 2022 BLS for the South Atlantic area. o Other Benefits (non-monetized): VDH is not aware of any non-monetized benefit currently. • The client or patient may refuse or withdraw consent for remote interactive audio and video supervision o Other Costs (non-monetized): As remote supervision is new, VDH cannot quantify the cost of this change as it does not have sufficient data to estimate how many clients or patients will choose to refuse or withdraw consent for remote supervision. Additionally, VDH does not have data about how much cost savings, if any, there will be for HCOs; while they may save on travel with remote supervision, they may also have to expend capital on remote supervision technologies and ongoing costs in support of those technologies. o Other Benefits (non-monetized): Clients or patients can prioritize privacy in their own home. • HCOs cannot decrease frequency of supervision because a client or patient has refused or withdrawn consent for remote interactive audio and video supervision o Other Costs (non-monetized): As remote supervision is new, VDH cannot quantify the cost of this change as it does not have sufficient data to estimate how many clients' or patients' care will be assessed as appropriate for remote supervision or how many clients or patients will choose to refuse or withdraw consent for remote supervision, which would result in having to conduct supervision in-person. Additionally, VDH does not have data about how much cost savings, if any, there will be for HCOs; while they may save on travel with remote supervision, they may also have to expend capital on remote supervision technologies and ongoing costs in support of those technologies. o Other Benefits (non-monetized): Clients or patients will not be penalized for prioritizing privacy in their own home. • Set the interval at which remote interactive audio (15 days) and video (30 days) supervision must take place o Other Costs (non-monetized): As remote supervision is new, VDH cannot quantify the cost of this change as it does not have

	sufficient data to estimate how many clients' or patients' care will be assessed as appropriate for remote supervision. Additionally, VDH does not have data about how much cost savings, if any, there will be for HCOs; while they may save on travel with remote supervision, they may also have to expend capital on remote supervision technologies and ongoing costs in support of those technologies. o Other Benefits (non-monetized): Specifying more frequent supervision if conducted through audio or visual means ensures that the lack of in-person visitation does not compromise client or patient health and safety. • Minimum documentation information about supervision must be documented in the client record or patient record o Other Costs (non-monetized): Because HCOs would have the option to use either LPNs or RNs for supervision, VDH cannot quantify the cost of this change as it does not have sufficient data to estimate which type of supervisor an HCO will choose, how many home care attendants need to be supervised, what supervisor-to-home-care-attendant ratio an HCO may use, or how many clients or patients an HCO has. Documenting the time, date, duration, and type of supervision should take no more than 10 minutes per service visit, which would be a cost of $8.67 per client or patient per service visit if an RN was used or $5.84 per client or patient per service visit if an LPN was used. This information was calculated using the the wage information from the May 2021 BLS for LPNs (Code 29-2061) in home health care services and RNs (Code 29-1141) in home health services. Fringe benefits are based on September 2022 BLS for the South Atlantic area. o Other Benefits (non-monetized): Documentation of supervision provided reduces likelihood of fraud and increases likelihood that an HCO is adhering to regulatory requirements. It also helps HCOs demonstrate compliance during biennial inspections and complaint inspections.
(4) Alternatives	In developing the proposed regulations, the Board considered that the affected industry consists primarily—or even exclusively—of small businesses. Providing a small business exemption would result in the overwhelming number of HCOs being exempt from the requirements, just as establishing performance standards or less stringent requirements specific to small business would have the effect of lowered standards and requirements in nearly every case. Consequently, there are no other alternative regulatory methods to minimizing the adverse impact on small businesses that the Board could utilize without being inconsistent with

	health, safety, environmental, and economic welfare while accomplishing the objectives of the General Assembly mandates.
(5) Information Sources	VDH has numerous challenges and constraints that limit a cost benefit analysis, including limited data availability and insufficient analytical models. To the extent costs and benefits could be calculated, VDH used information from the U.S. Bureau of Labor Statistics, VDH historical records, the current number of HCOs licensee, and anecdotal information from its inspectors (who themselves are health care practitioners such as RNs).

Changes to Number of Regulatory Requirements

Table 5: Total Number of Requirements

	Number of Requirements			
Chapter number	**Initial Count**	**Additions**	**Subtractions**	**Net Change**
381	258	8	6	2
TOTAL	258	8	6	2