



November 25, 2024
South Carolina Department of Public Health
2100 Bull Street
Columbia, SC 29201

RE: Proposed Changes in R. 61-122, Standards for Licensing In-Home Care Providers

The South Carolina Chapter of the Home Care Association of America (SC-HCAOA), the leading trade association representing home care agencies across the country, appreciates the opportunity to provide feedback on the proposed update to licensure requirements for in-home care providers. SC-HCAOA members work tirelessly every day to keep South Carolina’s seniors and most vulnerable populations where they belong, safely cared for at home.

We thank the Department for incorporating feedback previously provided by home care providers across the state prior to the submission of the new licensure regulations. For example:

- **Section 405(E):** Updating and clarifying that caregivers may possess a valid state-issued identification, as opposed to a driver’s license, as proof of age when driving is not part of the caregiver’s duties.
- **Section 405(F-G):** Updating and clarifying the regulation to allow providers the discretion to hire caregivers with lesser offenses and non-violent felonies dating back more than ten years.

We also appreciate the opportunity to provide the following comments as we consider the impact of several proposed requirements that would impact care costs borne by consumers who are already struggling to access the care they need.

Section 102(J): Health Assessment

HCAOA requests that the health assessment protocol not require initial and annual documented review by a physician. A health assessment by an authorized healthcare provider as defined would be sufficient for staff health assessments. DHEC has previously indicated they understand that home care agency owners can determine who is qualified, but this understanding is not reflected in the proposed regulations. Not all home care agencies have an RN on staff to complete these assessments. Given the ongoing workforce shortage and high turnover rate within our industry, requiring every potential hire to go to a “physicians or authorized healthcare providers” office on an annual basis will slow the hiring process and dramatically increase costs for providers, not to mention the additional demand this would place on physicians’ already busy schedules.

Section 102(L)(4): In-Home Care Provider

For clarity’s sake, we recommend that this exemption be rewritten as follows to be more specific as to who is exempt from licensure requirements: “An individual that is compensated by no more than one person or a family member to provide in-home care.”

Section 102(Q)



We request that the definition of “Medication” be synonymous with the definition for drug or medicine as found in the [South Carolina Pharmacy Practice Act SECTION 40-43-30](#).

Section 103(C)

HCAOA requests the proposed rule clearly define “lines of business,” and questions whether division between lines of business is in the best interest of consumers requiring support from a range of service lines and who are seeking efficient, coordinated care. Further, we want to make certain that the “in home care services” definition is not interpreted in a way that constrains the geographic location of where in-home services may be provided.

Section 205(A-C): Violations

HCAOA seeks clarification as to the time frames providers will be allowed to correct violations. Due to the fact that much of our workforce remains remote, we are concerned that providers may not be allotted sufficient time to implement necessary remedies. As such, we request deletion of “each day such violation exists after expiration of this time shall be considered a subsequent violation.” We believe this would place undue hardship on providers making good faith efforts to address violations that may take time to correct.

We recommend providers be allotted a reasonable amount of time to become compliant, and that good faith efforts to correct cited violations and providers overall history of compliance should be heavily considered by the Department when determining an enforcement action, as articulated in 205.E.

Further, we ask that DHEC utilize a portion of the penalty fees and license application fees to fund investigation of unlicensed caregiving entities to ensure quality and standards are upheld.

Section 301(A): Policies and Procedures

HCAOA requests an articulated list of each section the Department expects providers to reference in their policies and procedures.

Section 402: Drug Screening

While HCAOA understands that drug testing requirements for caregivers is codified in statute, we remain concerned about inconsistencies in requirements between home care and comparable levels of care in the state. Client safety is the utmost priority for all of our members. As such, all caregivers employed by our members are subject to extensive background checks.

An additional drug testing requirement, particularly when that requirement is not extended to other settings that hire from the same labor pool (such as home health (*Regulation 61-77; Section 500*) and hospice (see *Regulation 61-78, Section 600*)) adds expense, administrative burden, and hiring delays at a time when providers are struggling to meet the demand for care now more than ever.

HCAOA believes licensure requirements should be consistent across comparable care settings, and we look forward to working with lawmakers and the Department to address the impact of this requirement on providers while ensuring the quality of hired in-home caregivers.

Section 402(B)



HCAOA requests the deletion of language requiring random drug testing solely by laboratories in accordance with the federal [Clinical Laboratory Improvement Amendments](#) (CLIA) due to the substantial additional cost this imposes on providers. An entirely adequate drug test can be obtained through other, less costly means.

Section 603(A): Care Services Plan

It is customary for service agreements to include the signature of the client to authorize care. Service agreements also state the client, or their appointed representative, shall be involved in the development of the care plan. Given these existing requirements, we request that care plans and revised care plans not require additional signatures.

Section 603(B)(2): Requirements and arrangements for visits outside the client’s residence and Section 702. Transportation

HCAOA recommends changes to new proposed regulations related to client transportation in 603(B)(2) and 702. In Section 603(B)(2), it is unclear what constitutes a “visit outside the client’s residence,” as well as what specific “requirements” and “arrangements” the Department is requiring providers to document. We request that this requirement be removed. Section 702 is similarly broad and as written, suggests a requirement for transportation. We request replacing “shall” with “may.”

Section 604(C): Record Maintenance

We request the record retention policy be reduced to three years.

Section 800: Infection Control

To ensure compliance, we request identification of the document(s) from CDC that providers should reference to maintain proper infection control protocol.

Thank you again for the opportunity to provide feedback. We look forward to continued collaboration toward our shared goal of ensuring all South Carolinians can access the care they need.

Respectfully,

A handwritten signature in black ink, appearing to read "Jason Lee".

Jason Lee, CEO
Home Care Association of America