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IMPLEMENTATION OF THE HOME HEALTH AGENCY LICENSE

Less than a year after the creation of Colorado Home Health Agency licensure, The Colorado Department of Public Health and Environment (“CDPHE”) is still trying to work the kinks out of this new program. Strapped for cash under the State’s tight budget, the agency is short on surveyors and resources to implement the new set of home care agency regulations. The industry, however, is also playing catch-up with the new rules. Drafted to apply broadly, home care agency licensure applies to a wide variety of service providers—many of whom are only recently realizing that they are subject to the new law. And for those providers who have obtained licensure, we are already beginning to spot emerging trends in non-compliance.

Insights on Initial Surveys

CDPHE has indicated that they intend for initial surveys to be client focused. Surveyors will likely start with home visits and evaluate care being provided, satisfaction of services, consumer rights, and participation in treatment plans. Surveyors will also consider whether the plan of care is an accurate reflection of reality, and will review orders and personnel records. The sample of records reviewed will depend on the home care agency’s size. Surveyors will also review an agency’s policies and procedures and how an agency collects data and evaluates services provided.

Agencies are expected to perform competency and background checks on all staff, including both existing and newly hired employees. Staff who worked at the facility prior to the initial license application will not be “grandfathered” in.

If an agency uses electronic health records, the agency must provide a computer terminal to the surveyor and teach the surveyor how to navigate the computerized system. Agencies must have safeguards in place so that the surveyor may not change any information in the record. Note, however, that surveyors are required to collect hard copies of records in order to establish or deny the existence of deficient practices.



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Trends in Non-Compliance

In a recent meeting of the Home Health Advisory Committee, the committee discussed trends in non-compliance. For those agencies that are already licensed, they should be quick to review the following items, given that CDPHE is alert to these issues. The trends are as follows:

- Agencies are not using the required Consumer Rights Form.
- Agencies are not using the required Disclosure Form.
- Agencies have the components of the Quality Management Plan (“QMP”), but are not specific about the analysis or aggregate collection of data.
- Agencies are failing to ensure coordination of care with external providers.
- Agencies are failing to properly account for and supervise their staff. Specifically, recent surveys have shown nursing staff working in more than one agency and collecting a paycheck from each employer for 40+ hours.

CDPHE is Processing Complaints

Over the past year, the number of complaints against home care agencies has doubled. The majority of complaints have alleged fraud. And many of those complaints have been whistleblowers from agency staff.

There has been a substantial increase in condition level surveys related to clinical records accuracy, training, supervision, and CNA competencies (self evaluation/exchange of verbal information/incomplete). Remember, once an agency has a condition level survey the agency is unable to perform their own CNA competencies for 2 years regardless of the type of condition cited.

During complaint investigations, CDPHE considers both federal and state requirements. If an agency is required to complete a Plan of Correction (“POC”), the agency should be careful to follow the guidelines and try to include as much information as possible on how the agency is fixing and monitoring the practice.

We hope this information sheds light on the early stages of Colorado home care agency licensure implementation, and welcome your feedback or questions.

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