DEPARTMENT OF HEALTH

NOTICE OF THIRD EMERGENCY RULEMAKING

The Director of the Department of Health ("Department"), pursuant to the authority set forth in Sections 2(b) and 5(a) of the Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code, §§ 44-501(b) and 44-504(a) (2012 Repl.)) ("Act"), and in accordance with Mayor's Order 98-137, dated August 20, 1998, hereby gives notice of the adoption, on an emergency basis, of the following new Chapter 99 (Home Support Agencies) of Title 22 (Health), Subtitle B (Public Health and Medicine) of the District of Columbia Municipal Regulations.

As a result of investigating complaints and communicating with individuals, providers and relevant associations, the Department has determined there are not enough licensed providers of non-medical personal care services in the District to meet the current need. There are thousands of people in the District who require assistance with activities of daily living, such as dressing, eating, bathing and toileting.

The Director has been delegated the authority under Section 2(b) of the Act (D.C. Official Code § 44-501(b)) to determine the need for licensed facilities other than those already defined in the Act. The Director has determined that a new license category is required for home support facilities that only provide these non-medical health care services. These rules establish this category of facility and state the process and requirements for licensure. Among other things, the rules require home support agencies to ensure that aides are certified as home health aides, assess clients to determine whether they have needs beyond those that can be addressed by a home support agency, maintain sufficient personnel and supervision to deliver safe services, implement written client service policies to which the clients and the Department will have access, and report complaints to the Department.

The rules are issued on an emergency basis because they are necessary for the immediate preservation of the public health, safety, and welfare of the individuals currently receiving unlicensed personal care services. The rules will allow for the prompt licensure of home support agencies so that vulnerable residents will receive the quality assistance they need without suffering a break in service when the Department begins enforcement action against unqualified, unlicensed providers. The third emergency rule is needed to operate a licensing and regulatory system until final regulations are published.

This emergency rule was adopted by the Director on June 1, 2020, and became effective on that date and will expire on September 28, 2020. These rules are identical to the Notice of Emergency and Proposed Rulemaking published in the *D.C. Register* at 66 DCR 14466 (November 1, 2019), and adopted on July 24, 2019 and Notice of Second Emergency Rulemaking adopted by the Director on November 25, 2019, and published in the *D.C. Register* at 67 DCR 3834 (April 3, 2020). This Notice of Third Emergency Rulemaking is necessary to fill the gap between the expiring Notice of Second Emergency Rulemaking and a forthcoming Notice of Final Rulemaking.

Title 22-B DCMR, PUBLIC HEALTH AND MEDICINE, is amended by adding a new Chapter 99, HOME SUPPORT AGENCIES, to read as follows:

CHAPTER 99 HOME SUPPORT AGENCIES

9900 GENERAL PROVISIONS
9901 OPERATING OFFICE
9902 APPLICATION FOR LICENSURE
9903 LICENSURE
9904 LICENSE FEES
9905 INSURANCE
9906 GOVERNING BODY
9907 DIRECTOR
9908 POLICIES AND PROCEDURES
9909 PERSONNEL
9910 ADMISSIONS
9911 CLIENT SERVICE AGREEMENT
9912 DISCHARGES, TRANSFERS, AND REFERRALS
9913 CLIENT SERVICE PLAN
9914 CLIENT RECORDS
9915 RECORDS RETENTION AND DISPOSAL
9916 CLIENT RIGHTS AND RESPONSIBILITIES
9917 MANAGEMENT OF COMPLAINTS AND INCIDENTS
9918 PERSONAL CARE SERVICES
9919 COORDINATION OF SERVICES
9999 DEFINITIONS

9900 GENERAL PROVISIONS

9900.1 These regulations are implemented pursuant to sections 2(b) and 5(a) of the Health Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983 ("Act"), effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code §§ 44-501(b) and 44-504(a)).

9900.2 Each home support agency serving one or more clients in the District of Columbia shall be licensed and shall comply with the requirements in this chapter and, except as otherwise provided herein, with the regulations in Chapter 31 of Title 22-B of the District of Columbia Municipal Regulations ("DCMR"), which contains provisions on inspections, licensing and enforcement actions pertaining to facilities authorized under the Act.

9900.3 Each home support agency shall comply with all other applicable federal and District laws and regulations.

9901 OPERATING OFFICE

9901.1 Each home support agency shall maintain an operating office within the District of Columbia. This office shall be staffed at least eight (8) hours per business day.

9901.2 The business hours of the operating office shall be posted publicly so that they are visible from the outside of the office. The home support agency shall maintain a public website that provides, at a minimum, the home support agency's business hours, services provided, ownership information, key personnel, and contact information that includes a phone number and email address.

9901.3 A separate license shall be required for each operating office maintained by a home support agency.

9901.4 Each operating office shall either store at the office in paper form or have immediately available electronically the following records:

(a) Client records for all clients served within the District of Columbia;

(b) Personnel records for all employees;

(c) Home support agency policies and procedures;

(d) Incident reports and investigations; and

(e) Complaint reports and investigations.

9901.5 All other records and documents required under this chapter and other applicable laws and regulations that are not maintained within the operating office shall be produced for inspection within two (2) hours after a request by the Department, or within a shorter time if the Department so specifies.

9901.6 Each home support agency shall post its license in a conspicuous place within the operating office.

9901.7 Prior to any change in office location, a home support agency shall:

(a) Notify the Department in writing at least sixty (60) days prior to the change;

(b) Provide the following documentation to the Department:

(1) The new address;

(2) A copy of the lease agreement for the new office location, if applicable;

(3) A certificate of insurance reflecting the new address;

(4) A certificate of occupancy reflecting the new address;

(5) A Clean hands certificate in accordance with the D.C. Official Code §§ 47-2861 *et seq.*; and

(6) A Certificate of Good Standing for a corporation to be obtained from the Office of the Registrar of Corporations at the Department of Consumer and Regulatory Affairs; and

(c) Notify clients and staff in writing at least thirty (30) days prior to the change.

9901.8 The operating office shall be open to employees, clients, client representatives, and prospective clients and their representatives during business hours.

9902 APPLICATION FOR LICENSURE

9902.1 Applications for licensure shall be processed in accordance with this section and Chapter 31 of Title 22-B DCMR.

9902.2 The submission of an application does not guarantee that the Department will issue a license.

9902.3 Applicants for licensure shall submit the following information to the Department as part of the application:

(a) The names, addresses, and types of all entities owned or managed by the applicant;

(b) A copy of the applicant's operating policies and procedures manual for the home support agency;

(c) The identity of each officer and director of the corporation, if the entity is organized as a corporation, including name, address, phone number, and email;

(d) A copy of the Articles of Incorporation and Bylaws, if the entity is organized as a corporation;

(e) A copy of the Partnership Agreement and the identity of each partner if the entity is organized as a partnership, including name, address, phone, number, and email;

(f) A copy of the Articles of Formation and Operating Agreement, if the entity is organized as a limited liability company;

(g) The identity of the members of the governing body, including name, address, phone number, and email;

(h) The identity of any officers, directors, partners, managing members or members of the governing body who have a financial interest of five percent (5%) or more in an applicant's operation or related businesses, including name, address, phone number, and email;

(i) Disclosure of whether any officer, director, partner, employee, or member of the governing body has a felony criminal record;

(j) The name of the Director who is responsible for the management of the home support agency and the name of the Client Service Coordinator, if applicable;

(k) A list of management personnel, including their credentials; and

(l) Any other information required by the Department.

9902.4 Each applicant shall be responsible for submitting a complete application, including all information required pursuant to § 9902.3. The Department reserves the right to return an incomplete application to the applicant: The return of an incomplete application to the applicant shall not be considered a denial of the application.

9902.5 If the Department returns the application with identified deficiencies:

(a) The applicant shall have thirty (30) days to correct the identified deficiencies and return the application to the Department; and

(b) If the applicant resubmits the application to the Department and has not corrected all the deficiencies, the application shall be deemed incomplete and returned the applicant. The applicant shall have the option of filing a new application along with a new processing fee.

9902.6 As part of its review of a home support agency's application, the Department shall conduct an on-site walk through of the business location to verify that the office is capable of operating.

9903 LICENSURE

9903.1 At the beginning of a home support agency's license year, the Department shall issue a provisional license for a period of ninety (90) days to each home support agency that has completed the application process consistent with these regulations, has passed the on-site walk through by the Department, and whose policies and

procedures demonstrate compliance with the rules and regulations pertaining to home support agency licensure.

9903.2 A provisional license shall permit a home support agency to hire staff and establish a client caseload;

9903.3 To be eligible for a permanent license, the home support agency shall:

(a) Obtain and demonstrate that the home support agency has a client census equal to or greater than five (5) clients by the end of the ninety (90) day provisional license period;

(b) Notify the Department that is has a client census of at least five (5) clients;

(c) Complete an on-site survey during the provisional license period, provided they have a demonstrated client census of five (5) or more clients; and

(d) Demonstrate during the on-site survey, that it meets the definition of a home support agency in these regulations, complies with these regulations, and is in operation and caring for clients.

9903.4 The Department may, at its discretion, renew a provisional license for up to an additional ninety (90) days in order for the licensee to meet the definition of a home support agency, have a demonstrated client census of five (5) or more clients, and come into substantial compliance with these regulations:

(a) The Department shall designate the conditions and the time period for the renewal of a provisional license;

(b) An initial provisional license issued to a home support agency that is not in substantial compliance with these regulations following an on-site survey by the Department shall not be renewed unless the Department approves a corrective action plan for the home support agency; and

(c) If a home support agency is not in substantial compliance with these regulations after two (2) provisional license periods, the home support agency shall be denied a permanent license.

9903.5 The Department shall grant a permanent license for a period of twelve (12) months, including the provisional license period, to a home support agency that the Department has determined meets the definition of a home support agency, complies with these regulations, and has a demonstrated client census of five (5) or more clients.

9903.6 An existing licensed home support agency shall apply for renewal of its license at least ninety (90) days prior to its expiration.

9903.7 A renewal license shall not be issued to a home support agency that at the time of renewal:

(a) Does not meet the definition of a home support agency as contained within these regulations;

(b) Is not in substantial compliance with these regulations as determined by the Department;

(c) Does not have a demonstrated client census of five (5) or more clients; or

(d) Has one or more deficient practice which presents an immediate threat to the health and safety of its clients.

9903.8 A home support agency that undergoes a modification of ownership or control is required to re-apply for licensure as a new home support agency.

9903.9 The Department shall issue each license only for the premises and the person or persons named as applicant(s) in the license application. The license shall not be valid for use by any other person or at any place other than that designated in the license. Any transfer of the home support agency to a new person or place without the approval of the Department shall result in the immediate forfeiture of the license.

9903.10 A home support agency licensed pursuant to this chapter shall not use the word "health" in its title.

9904 LICENSE FEES

9904.1 License fees for home support agencies shall be based upon a census of clients served in the District of Columbia at the time of applying for the issuance or renewal of a license. The fees shall be as follows:

(a)	Initial Application Processing Fee	$1200
(b)	License Fee	$400
(c)	1 – 50 Clients Annual Renewal Processing Fee	$800
(d)	51 – 150 Clients Annual Renewal Processing Fee	$1400
(e)	151 – 350 Clients Annual Renewal Processing Fee	$2200

(f)	351 or more Clients Annual Renewal Processing Fee	$2600
(g)	Duplicate of License	$100
(h)	Late Fee for Renewal Application	$100

9905 INSURANCE

9905.1 Each home support agency shall maintain the following minimum amounts of insurance coverage:

(a) Blanket malpractice insurance for all professional employees in the amount of at least one million dollars ($1,000,000) per incident; and

(b) Comprehensive general liability insurance covering personal property damages, bodily injury, libel and slander in the amount of at least one million dollars ($1,000,000) per incident or occurrence and two million dollars ($2,000,000) aggregate.

9906 GOVERNING BODY

9906.1 Each home support agency shall have a governing body that shall be responsible for the operation of the home support agency.

9906.2 The governing body shall:

(a) Establish and adopt by-laws, policies, and procedures governing the operation of the home support agency;

(b) Designate a full-time Director who is qualified in accordance with Section 9907 of this chapter;

(c) Review and evaluate, on an annual basis, all policies and procedures governing the operation of the home support agency to ensure that services promote client care that is appropriate, adequate, effective and efficient. This review and evaluation shall include the following:

(1) A review of feedback from a representative sample consisting of either ten percent (10%) of total District of Columbia clients or forty (40) District of Columbia clients, whichever is less, regarding services provided to those clients; and

(2) A review of all complaints and incidents involving the home support agency, including the nature of each complaint or incident, the home support agency's response, and the resolution;

(d) A written report of the results of the evaluation shall be prepared and shall include recommendations for modifications of the home support agency's overall policies or practices, if appropriate; and

(e) The evaluation report shall be acted upon by the governing body at least annually. The results of the action taken by the governing body shall be documented, maintained, and available for review by the Department.

9907 DIRECTOR

9907.1 The Director shall be responsible for managing and directing the home support agency's operations, serving as a liaison between the governing body and staff, employing qualified personnel, and ensuring that staff members are adequately and appropriately trained.

9907.2 The Director shall be available at all times during the business hours of the home support agency.

9907.3 The Director shall designate, in writing, a similarly qualified person to act in the absence of the Director.

9907.4 The home support agency shall advise the Department in writing within fifteen (15) days following any change in the designation of the Director.

9907.5 The Director shall:

(a) Be a registered nurse licensed in the District of Columbia; or

(b) Have training and experience in health services administration, including at least one (1) year of supervisory or administrative experience in health services or related health programs.

9907.6 If the Director is not a registered nurse, the home support agency shall also have a full-time Client Service Coordinator appointed by the Director who is a registered nurse licensed in the District of Columbia.

9907.7 The Client Service Coordinator, or the Director if the Director is a registered nurse, shall:

(a) Be responsible for implementing, coordinating and assuring the quality of client services;

(b) Be available at all times during the business hours of the home support agency;

(c) Participate in all aspects of services provided, including the development of clients' service plans and the assignment of qualified personnel; and

(d) Provide general supervision and direction of the services offered by the home support agency.

9907.8 The Director, Client Service Coordinator, or an individual designated by the Director in writing, must be on-call outside of the home support agency's business hours.

9908 POLICIES AND PROCEDURES

9908.1 Each home support agency shall develop and implement written operational policies and procedures that govern the day-to-day operations of the home support agency. These policies and procedures shall be approved by the governing body and shall be available for review by the Department.

9908.2 The home support agency's written policies and procedures shall govern the following topics, at a minimum:

(a) Personnel;

(b) Admission and denials of admission;

(c) Discharges and referrals;

(d) Coordination of services;

(e) Records retention and disposal;

(f) Client rights and responsibilities;

(g) Complaint process;

(h) Each service offered;

(i) Billing for services;

(j) Supervision of services;

(k) Infection control; and

(l) Management of incidents.

9908.3 Staff shall be oriented towards the written policies and procedures. The written policies and procedures shall be readily available for use by staff at all times.

9908.4 Written policies and procedures shall be available to clients, prospective clients, and client representatives, upon request.

9909 PERSONNEL

9909.1 Each home support agency shall have written personnel policies that shall be available to each staff member and shall include the following:

(a) The terms and conditions of employment, including but not limited to wage scales, hours of work, personal and medical leave, insurance, and benefits;

(b) Provisions for an annual evaluation of each employee's performance by appropriate supervisors;

(c) Provisions pertaining to probationary periods, promotions, disciplinary actions, termination and grievance procedures;

(d) A position description for each category of employee; and

(e) Provisions for orientation, periodic training or continuing education, and periodic competency evaluation.

9909.2 Each home support agency shall maintain accurate personnel records, which shall include the following information for each employee:

(a) Name, address and social security number;

(b) Current professional license, registration, or certification, if any;

(c) Resume of education, training certificates, skills checklist, and prior employment, and evidence of attendance at orientation and in-service training, workshops or seminars;

(d) Documentation of current CPR certification, if required;

(e) Health certification as required by Section 9909.7 of this chapter;

(f) Verification of previous employment;

(g) Documentation of reference checks;

(h) Copies of completed annual evaluations;

(i) Documentation of any required criminal background check;

(j) Documentation of all personnel actions;

(k) A position description signed by the employee;

(l) Results of any competency testing;

(m) Documentation of acceptance or declination of the Hepatitis Vaccine; and

(n) Documentation of insurance, if applicable.

9909.3 Each home support agency shall comply with the Health-Care Facility Unlicensed Personnel Criminal Background Check Act of 1998, effective April 20, 1999 (D.C. Law 12-238; D.C. Official Code §§ 44-551 *et seq*.), for its employees who are not licensed, certified or registered in accordance with the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq*.) ("HORA"), and shall ensure that employees who are licensed, registered, or certified in accordance with the HORA are in compliance with the criminal background check requirements of D.C. Official Code § 3-1205.22.

9909.4 Each home support agency shall maintain its personnel records for all personnel serving clients within the District of Columbia in its operating office in paper form or have these records immediately available electronically.

9909.5 Each employee shall have a right to review his or her personnel records.

9909.6 At the time of initial employment, the home support agency shall verify that the employee, within the six (6) months immediately preceding the date of hire, has been screened for and is free of all communicable diseases.

9909.7 Each employee shall be screened for communicable diseases according to the guidelines issued by the federal Centers for Disease Control and Prevention, and shall be certified free of communicable diseases.

9909.8 No employee may provide personal care services, and no home support agency may knowingly permit an employee to provide personal care services, if the employee:

(a) Is under the influence of alcohol, any mind-altering drug or combination thereof; or

(b) Has a communicable disease which poses a confirmed health risk to clients.

9909.9 Each employee who is required to be licensed, certified or registered to provide services in the District of Columbia shall be licensed, certified or registered under the laws and rules of the District of Columbia.

9909.10 Each home support agency shall document the professional qualifications of each employee to ensure that the applicable licenses, certifications, accreditations or registrations are valid.

9909.11 Each home support agency shall ensure that each employee presents a valid home support agency identification prior to entering the home of a client.

9910 ADMISSIONS

9910.1 Each home support agency shall develop and implement written policies on admissions, which shall include, at a minimum, the following:

(a) Admission criteria and procedures;

(b) A description of the services provided;

(c) The amount charged for each service;

(d) Policies governing fees, payments and refunds;

(e) Execution and location of client advance directives (living will and durable power of attorney for health care), as applicable;

(f) Execution and location of client Medical Orders for Scope of Treatment ("MOST"), as applicable;

(g) Communication with the client representative, if applicable;

(h) Client service agreements; and

(i) Client consent for interagency sharing of information.

9910.2 A written summary of the home support agency's admissions policies, including all of the items specified at Subsection 9909.1 of this chapter, shall be made available to each prospective client upon request, and shall be given to each client upon admission.

9910.3 The home support agency shall only admit those individuals whose needs can be met by the home support agency.

9910.4 Each home support agency shall conduct an initial assessment by a registered nurse to ensure that the client does not require services outside of the scope of personal

care services. The assessment shall include a home visit and a review of information provided by the prospective client or the client representative and any other pertinent data and shall take place prior to the time that personal care services are initially provided to the client. The assessment must determine whether the home support agency has the ability to provide the necessary services in a safe and consistent manner.

9910.5 The home support agency shall notify each individual requesting services from the home support agency of the availability or unavailability of service, and the reason(s) therefor, within forty-eight (48) hours after the referral or request for services.

9910.6 A home support agency shall maintain records on each person requesting services whose request is not accepted. The records shall be maintained for at least one (1) year from the date of non-acceptance and shall include the nature of the request for services and the reasons for not accepting the client.

9911 CLIENT SERVICE AGREEMENT

9911.1 There shall be a written service agreement between each client and the home support agency. The agreement shall:

(a) Specify the services to be provided by the home support agency, including but not limited to:

(1) Frequency of visits including scheduled days and hours;

(2) Accompaniment and/or transportation agreements as appropriate;

(3) Procedures for emergency medical response; and

(4) Conditions for discharge and appeal;

(b) Specify the procedure to be followed when the home support agency is not able to keep a scheduled client visit;

(c) Specify financial arrangements, which shall minimally include:

(1) A description of services purchased and the associated cost;

(2) An acceptable method of payment(s) for services;

(3) An outline of the billing procedures, including any required deposits, if applicable;

(4) A requirement that all payments by the client for services rendered shall be made directly to the home support agency or its billing representative and no payments shall be made to or in the name of individual employees of the home support agency; and

(5) The home support agency's policies for non-payment;

(d) Identify the client representative, if applicable;

(e) Specify the home support agency's emergency contact information during both business and non-business hours;

(f) Specify the number for the Department of Health's Complaint Hotline;

(g) Be signed by the client or client representative, if applicable, and the representative of the home support agency prior to the initiation of services;

(h) Be given to the client or client representative, if applicable, and a copy shall be kept in the client record; and

(i) Be reviewed and updated as necessary to reflect any change in the services or the financial arrangements.

9912 DISCHARGES, TRANSFERS, AND REFERRALS

9912.1 Each home support agency shall develop and implement written policies that describe discharge, transfer, and referral criteria and procedures, including timeframe for discharge, transfer, or referral if a need for services beyond personal care services is identified.

9912.2 Each client shall receive written notice of discharge or referral no less than seven (7) days prior to the action. The seven (7) day written notice shall not be required, and oral notice may be given at any time, if the transfer, referral or discharge is the result of:

(a) A medical or social emergency;

(b) A physician's order to admit the client to an in-patient facility;

(c) A determination by the home support agency that the referral or discharge is necessary to protect the health, safety, or welfare of the home support agency's staff; or

(d) The refusal of further services by the client or the client representative.

9912.3 Each home support agency shall document activities related to discharge, transfer, or referral planning for each client in the client's record.

9913 CLIENT SERVICE PLAN

9913.1 The home support agency shall provide services in accordance with a written client service plan in agreement with the client or client representative, if applicable.

9913.2 A registered nurse shall develop a service plan on admission based upon the initial assessment of the client and in accordance with Subsection 9917.4.

9913.3 The service plan shall include at least the following:

(a) The scope and types of services, frequency and duration of services to be provided, including any diet, equipment, and transportation required;

(b) Parameters related to services provided pursuant to Subsection 9917.4(e)-(f) of this chapter;

(c) Functional limitations of the client;

(d) Activities permitted; and

(e) Safety measures required to protect the client from injury.

9913.4 A registered nurse shall review and evaluate the service plan at least every ninety (90) days.

9913.5 A copy of the service plan shall be available to the client or client representative upon request.

9913.6 The personnel assigned to each client shall be oriented to the service plan.

9914 CLIENT RECORDS

9914.1 Each home support agency shall establish and maintain a complete and accurate client record of the services provided to each client in accordance with this chapter and accepted professional standards and practices.

9914.2 Each client record shall include the following information related to the client:

(a) Admission data, including name, address, date of service inquiry, date of birth, sex, next of kin, name and contact information of the client representative (if applicable), date accepted by the home support agency to receive services, and source of payment;

(b) Source of referral;

(c) Initial assessment and on-going evaluation;

(d) Signed client services agreement;

(e) Advance directives (living will and durable power of attorney for health care), if applicable;

(f) General Power of Attorney or Guardianship, if applicable;

(g) MOST, if applicable;

(h) Service plan;

(i) History of sensitivities and allergies;

(j) Medication list;

(k) Service delivery notes signed and dated as appropriate by staff;

(l) Documentation of supervision of personal care services;

(m) Documentation of discharge planning, if appropriate;

(n) Discharge summary, including the reason for termination of services and the effective date of discharge;

(o) Documentation of coordination of services, if applicable;

(p) Communications between the home support agency and all health care professionals involved in the client's care; and

(q) Documentation of training and education given to the client and the client's caregivers.

9915 RECORDS RETENTION AND DISPOSAL

9915.1 Each home support agency shall maintain a records system that shall include the following:

(a) Written policies that provide for the protection, confidentiality, retention, storage, and maintenance of home support agency records; and

(b) Written procedures that address the transfer or disposition of home support agency records in the event of dissolution of the home support agency.

9915.2 If a home support agency is dissolved and there is no identified new owner, the home support agency records shall be retained either electronically or in paper form so as to be retrievable upon request by the client or the client representative for a period of five (5) years following the date of dissolution. The records shall be produced to the client or client representative within thirty (30) days of receipt of a request and at no cost to the client or the client representative.

9915.3 Each home support agency shall inform the Department and each client in writing, within thirty (30) days of dissolution of the home support agency, of the location of the client records and how each client may obtain his or her records.

9915.4 A home support agency shall maintain client records for at least five (5) years after the date of discharge of the client.

9915.5 A home support agency shall maintain records of complaints and incidents for a minimum of five (5) years.

9915.6 A home support agency shall maintain the personnel records of each staff member for at least five (5) years after the date of termination or separation.

9915.7 Department authorities shall have access to home support agency records at all times.

9916 CLIENT RIGHTS AND RESPONSIBILITIES

9916.1 Each home support agency shall develop a written statement of client rights and responsibilities that shall be given, upon admission, to each client who receives personal care services or the client representative, if applicable.

9916.2 Each home support agency shall develop policies to ensure that each client who receives personal care services has the following rights:

(a) To be treated with courtesy, dignity, and respect;

(b) To control his or her own household and lifestyle;

(c) To be informed orally and in writing of the following:

(1) Services to be provided by the home support agency, including any limits on service availability;

(2) The amount charged for each service, and procedures for billing and non-payment;

(3) Prompt notification of acceptance, denial or reduction of services;

(4) Complaint process; and

(5) The telephone number of the Complaint Hotline maintained by the Department;

(d) To receive services consistent with the service agreement and with the client's service plan;

(e) To participate in the planning and implementation of his or her personal care services;

(f) To receive services by competent personnel who can communicate with the client;

(g) To refuse all or part of any service and to be informed of the consequences of refusal;

(h) To be free from mental and physical abuse, neglect, and exploitation by home support agency employees;

(i) To be assured confidential handling of client records as provided by law;

(j) To be educated about and trained in matters related to the services to be provided;

(k) To voice a complaint or other feedback to the Department or the home support agency in confidence and without fear of reprisal from the home support agency or any home support agency personnel, in writing or orally, including an in-person conference if desired, and to receive a timely response to a complaint as provided in these rules; and

(l) To have access to his or her own client records.

9916.3 Each home support agency shall inform all clients that they have the right to make complaints and to provide feedback concerning the services rendered by the home support agency to the Department, in confidence and without fear of reprisal from the home support agency or any home support agency personnel, in writing or orally, including an in person conference if desired.

9916.4 Each home support agency shall develop a statement of client responsibilities regarding the following:

(a) Treating home support agency personnel with respect and dignity;

(b) Providing accurate information when requested;

(c) Informing the home support agency when instructions are not understood or cannot be followed;

(d) Cooperating in making a safe environment for care within the home; and

(e) Providing prompt payment for services.

9916.5 Written policies on client rights and responsibilities shall be made available to the general public.

9916.6 The home support agency shall take appropriate steps to ensure that all information is conveyed, pursuant to these rules, to any client who cannot read or who otherwise needs accommodations in an alternative language or communication method. The home support agency shall document in the client's records the steps taken to ensure that the client has been provided effectively with all required information.

9917 MANAGEMENT OF COMPLAINTS AND INCIDENTS

9917.1 Each home support agency shall develop and implement policies and procedures for receiving, processing, documenting, and investigating complaints and incidents.

9917.2 A complaint may be presented to the home support agency orally or in writing.

9917.3 A written summary of the complaint process shall be given to the client or client representative upon acceptance or denial of services.

9917.4 The telephone number of the Complaint Hotline maintained by the Department shall be posted in the home support agency's operating office in a place where it is visible to all staff and visitors.

9917.5 Each home support agency shall respond to each complaint received by it within fourteen (14) days of receipt, shall investigate the complaint as soon as reasonably possible, and shall, upon completion of the investigation, provide the complainant with the results of the investigation.

9917.6 If the client indicates that he or she is not satisfied with the response, the home support agency shall respond in writing within thirty (30) days from the client’s expression of dissatisfaction. The response shall include the telephone number and address of all District government agencies with which a complaint may be filed and the telephone number of the Complaint Hotline maintained by the Department.

9917.7 The home support agency shall report all incidents involving a client occurring in the presence of staff to the Department within forty-eight (48) hours in addition to other reporting requirements prescribed by law.

9917.8 The home support agency shall investigate all incidents. The home support agency shall forward a complete investigation report to the Department within thirty (30) days of the occurrence or of the date that the home support agency first became aware of the incident.

9917.9 Each home support agency shall develop and implement a system of documenting complaints and incidents, which shall reflect all complaint, incident, and investigative activity for each year, and which shall include, for each complaint or incident:

(a) The name, address and phone number of the complainant or client involved in the incident, if known;

(b) If the complaint is anonymous, a statement so indicating;

(c) The date on which the complaint is received or the incident occurred;

(d) A description of the complaint or incident, including the names of any staff involved;

(e) The date on which the investigation is completed;

(f) Whether the complaint is substantiated; and

(g) Any subsequent action taken as a result of the complaint or incident, and the date on which the action was taken.

9917.10 Each home support agency shall report any action taken by, or any condition affecting the fitness to practice of, a registered nurse or home health aide that might be grounds for enforcement or disciplinary action under HORA or Home Health Aide Regulations of Chapter 93 of Title 17 of the District of Columbia Municipal Regulations to the Department within five (5) business days of the home support agency's receipt of the relevant information.

9917.11 The Department may receive and investigate a complaint alleging violation of any provision of this chapter and may investigate any incident.

9917.12 Based on a licensee's or applicant's violation of any provision of this chapter, the Department may initiate an enforcement action which may include license denial, license suspension, license summary suspension, or license revocation.

9917.13 As an alternative to denial, suspension, or revocation of a license when a home support agency has numerous deficiencies or a serious single deficiency with respect to the standards established under this chapter, the Director may:

(a) Issue a provisional license if the home support agency is taking appropriate ameliorative action in accordance with a mutually agreed upon timetable; or

(b) Issue a restricted license that prohibits the home support agency from accepting new clients or delivering certain specified services that it would otherwise be authorized to deliver, if appropriate ameliorative action is not forthcoming.

9917.14 A provisional or restricted issued under this section may be granted for a period not exceeding ninety (90) days, and may be renewed no more than once.

9917.15 When a provisional or restricted license has expired the Department may choose to initiate enforcement action in accordance with this section.

9918 PERSONAL CARE SERVICES

9918.1 A home support agency may offer personal care services and shall employ qualified home health aides pursuant to 17 DCMR §§ 9300 *et seq* to perform those services.

9918.2 Each home health aide shall be supervised by a registered nurse. On-site supervision of personal care services shall take place at least once every ninety (90) days.

9918.3 The home support agency shall have an adequate number of registered nurses to supervise the implementation of personal care services.

9918.4 Personal care services may include the following:

(a) Basic personal care including bathing, grooming, dressing, and assistance with toileting;

(b) Assisting with incontinence, including bed pan use, changing urinary drainage bags, protective underwear, and monitoring urine input and output;

(c) Assisting the client with transfer, ambulation, and exercise as prescribed;

(d) Assisting the client with self-administration of medication;

(e) Reading and recording temperature, pulse, and respiration;

(f) Measuring and recording blood pressure, height, and weight;

(g) Observing, recording, and reporting the client's physical condition, behavior, or appearance;

(h) Meal preparation in accordance with dietary guidelines, and assistance with eating;

(i) Implementation of universal precautions to ensure infection control;

(j) Tasks related to keeping the client's living area in a condition that promotes the client's health and comfort;

(k) Accompanying or transporting the client to medical and medically-related appointments, to the client's place of employment, and to recreational activities;

(l) Assisting the client at his or her place of employment;

(m) Shopping for items related to promoting the client's nutritional status and other health needs; and

(n) Providing companion services.

9919 COORDINATION OF SERVICES

9919.1 A home support agency shall develop and implement policies and procedures relating to:

(a) The delineation of services provided by the home support agency when the home support agency coordinates services within the home support agency or with another provider; and

(b) Notification to the client or client representative of the home support agency's responsibilities to coordinate services when appropriate.

9919.2 Personnel providing services shall communicate with each other to assure their efforts effectively complement one another and support the objectives outlined in the client service plan.

9919.3 The client record or minutes of case conferences shall establish that effective interchange, reporting, and coordinated client evaluation and planning occurs.

9999 DEFINITIONS

9999.1 For the purposes of this chapter, the following terms shall have the meanings ascribed below:

Admission - A home support agency's acceptance of client to provide personal care services.

Business day - Monday through Friday between the hours of 8:00am and 6:00pm, excluding public holidays.

Business hours - The hours during the day in which business operations are commonly conducted in the operating office by the licensee.

Client - The individual receiving home support agency services as defined in this chapter.

Client record - A written account of all services provided to a client by the home support agency, as well as other pertinent information necessary to provide care.

Client representative - A person designated in writing by the client in the service agreement or a person acting in a representative capacity under a durable power of attorney, durable power of attorney for health care, or guardianship pursuant to District law, or other legal representative arrangement.

Client Service Coordinator - A registered nurse who is sufficiently qualified to provide general supervision and direction of the services offered by the home support agency and who has at least one (1) year administrative or supervisory experience in personal care, home health care, or related health programs.

Client service plan - A written plan developed by the registered nurse in agreement with the client or client representative, if applicable, that specifies the tasks that are to be performed by the aide primarily in the client's residence. The written plan specifies scope, frequency, and duration of services.

Companion services - Non-healthcare related services, such as cooking, housekeeping, errands, and social interaction.

Complaint - Any occurrence or grievance reported by a client or client representative related to the nature of the services provided by the home support agency.

Department - The District of Columbia Department of Health.

Director - The individual appointed by the governing body to act on its behalf in the overall management of the home support agency.

Full-time - Employment period by the home support agency, at minimum, during each of the home support agency's established business days.

Governing body - The individual, partnership, group, or corporation designated to assume full legal responsibility for the policy determination, management, operation, and financial liability of the home support agency.

Home health aide - A person who performs home health and personal care services, and who is qualified to perform such services pursuant to Chapter 93 of Title 17 of the District of Columbia Municipal Regulations.

Home support agency - An entity licensed in accordance with this chapter that employs home health aides to provide personal care services to clients.

Incident - Any occurrence that results in significant harm, or the potential for significant harm, to a client's health, welfare, or well-being. Incidents include an accident resulting in significant injury to a client, death, misappropriation of a client's property or funds, or an occurrence requiring or resulting in intervention from law enforcement or emergency response personnel.

License - Formal permission granted by the Department to act as a home support agency in accordance with law.

Licensee - The individual or entity to whom the Department has granted formal permission to act as a home support agency in accordance with law.

Modification of ownership and control - The sale, purchase, transfer or re-organization of ownership rights.

Medical Orders for Scope of Treatment (MOST) Form - A set of portable, medical orders on a form issued by the Department that results from a client's or a client representative's informed decision-making with a health care professional pursuant to D.C Official Code §§ 21-2221 *et seq*.

Operating Office - The physical location at which the business of the home support agency is conducted and at which the records of personnel, clients, incidents, and complaints of the home support agency are stored either electronically or physically.

Personal care services - Services that are limited to individual assistance with or supervision of activities of daily living, companion services, homemaker services, reporting changes in client's condition, and completing reports. Personal care services do not include skilled services.

Registered nurse - An individual who is currently licensed to practice nursing under the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq*.)

Service delivery notes - Documentation of the duties or tasks completed per shift by a home health aide, nursing supervision, and any other pertinent information related to the provision of services.