



COMMONWEALTH of VIRGINIA
Department for the Aging

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AAA TUESDAY E-MAILING
September 28, 2010

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Note: The web addresses (links) in this document may change over time. The Department for the Aging does not attempt to refresh the links once the week has passed. However, this document is maintained on the web for a period of time as a reference. Some links may require registration.



10-120

COMMONWEALTH of VIRGINIA
Department for the Aging

MEMORANDUM

TO: Executive Directors
Area Agencies on Aging

FROM: James Rothrock, Interim Commissioner,
Virginia Department for the Aging
Commissioner, Virginia Department of Rehabilitative Services

DATE: September 28, 2010

SUBJECT: Director, Community Integration - Position Established

The Virginia Department of Rehabilitative Services is seeking a qualified Director, Community Integration. Please see the attached announcement.

Thanks for your assistance in disseminating the announcement.

Virginia Department of Rehabilitative Services
Program Administration Specialist II/Director, Community Integration
Henrico
Position #00272
Pay Band 5 - \$40,959 - \$84,062
Closing Date: October 8, 2010

The Department of Rehabilitative Services is seeking a qualified Director, Community Integration. This position coordinates cross-governmental efforts to implement the 1999 U.S. Supreme's Court's Olmstead v. L.C. decision in Virginia through "Virginia's Comprehensive, Cross-Government Strategic Plan to Assure Continued Community Integration of Virginians with Disabilities (The Plan). The Director works with the Community Integration Advisory Commission (CIAC) and state agency Implementation Team to develop, annually update, and implement the strategic plan to assure community integration of Virginians with disabilities. Serves on DRS Management Team and reports to the Commissioner.

Responsibilities: Convenes and coordinates activities of the Community Integration Advisory Commission. Provides staff support to the CIAC. Monitors the development and implementation of the Strategic Plan and Annual Progress Report. At the direction of the CIAC, conducts studies, provides legislative updates and monitors legislation, drafts correspondence to government officials, stakeholders, citizens, advocacy groups, etc. Advises the Commission on new laws, policies, and procedures. Serves as liaison to the Governor's office, cabinet secretaries, and other executive branch agencies regarding activities of the Commission. Monitors and provides reports to various legislative committees and commissions, such as Joint Healthcare Commission and Disability Commission. Convenes and coordinates the activities of the State Agency Implementation Team. Annually updates the Cross-Governmental Plan to Assure Community Integration of Virginians with Disabilities. Updates the annual progress report. Works with the Team to implement the work plan provisions and ensure cross-agency collaboration. Participates in the Money Follows the Person (MFP) Initiative. Serves on the state-level MFP project advisory work group. Participates in CMS MFP project monitoring calls. Lead role in the Housing Expansion Task Force for Individuals with Disabilities. Maintains the Housing and Transportation Resource Bank on the MFP website. Participates in the Systems Transformation Grant (STG) project. Assists SHHR in activities relating to the evaluation of the grant. Works with stakeholders to effectively disseminate documents developed on self direction of services. Works with VDA and CILs to address and resolve issues relating to No Wrong Door and Virginia Easy Access.

Requirements: Comprehensive understanding of the Olmstead Decision, the Money Follows the Person initiative in Virginia, person-centered principles and practices, and the independent living philosophy. Knowledge of applicable civil and human rights regulations (federal and state). Excellent verbal, written, and presentation skills. Ability to work and communicate effectively with a wide variety of community organizations and state agencies. Familiarity with various software programs such as Word and Excel. Working knowledge of state budget and legislative processes, as well as, state disability

agency organizations. Experience in state government is preferred. Graduation from an accredited college or university with major course work in public policy, human services, rehabilitation counseling, social work, or a closely related field. Master's degree preferred. Professional experience in the management and administration of human service programs that include evaluation, policy/regulation analysis, and coordination across organizational and agency boundaries. Management level experience highly desired. Experience working with persons with disabilities preferred.

Contact Information: Please visit our Career Center at www.vadrs.org for position information or how to apply for a position, or to obtain an Application for Employment form visit <http://jobs.agencies.virginia.gov> or call 804-726-1919. Applications must be submitted through the RMS online system unless the applicant has called in advance to request a reasonable accommodation. Minorities and people with disabilities are encouraged to apply. EEO/AA/TTY – Reasonable accommodations upon request.

Closing Date: 5:00 p.m., October 8, 2010



10-121

COMMONWEALTH of VIRGINIA
Department for the Aging

MEMORANDUM

TO: Executive Directors
Area Agencies on Aging

FROM: Ellen Nau, Human Services Program Coordinator

DATE: September 28, 2010

SUBJECT: Home Care and Hospice Regulations

Technical Amendments

The Virginia Department of Health (VDH) advises that technical amendments have been made to the regulations for home care and hospice as a result of a review commission of then Attorney General and now Governor McDonnell and the 2010 General Assembly session. VDH further states that the actions were taken as nondiscretionary as allowed by the Administrative Process Act. Attached are copies of the amendments as reported in the Virginia Register. The amendments become effective September 30, 2010.

Carrie Eddy, Senior Policy Analyst at the Office of Licensure and Certification (OLC) at VDH, notes that the hospice amendments *are not to be confused* with the project regarding hospice facilities. Hospice facility regulations are going to be reviewed by the Governor's Office.

The personal care amendments *should not be confused* with the continuing project to revise home care regulations.

Revised regulations are available at the OLC website: www.vdh.virginia.gov/olc

Regulations

Final Regulation

REGISTRAR'S NOTICE: The State Board of Health is claiming an exemption from the Administrative Process Act in accordance with (i) § 2.2-4006 A 3 of the Code of Virginia, which excludes regulations that consist only of changes in style or form or corrections of technical errors and (ii) § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The State Board of Health will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 12VAC5-381. Regulations for the Licensure of Home Care Organizations (amending 12VAC5-381-170, 12VAC5-381-180, 12VAC5-381-200).

Statutory Authority: §§ 32.1-12 and 32.1-162.12 of the Code of Virginia.

Effective Date: September 30, 2010.

Agency Contact: Carrie Eddy, Policy Analyst, Department of Health, 3600 West Broad Street, Richmond, VA 23230-4920, telephone (804) 367-2102, FAX (804) 367-2149, or email carrie.eddy@vdh.virginia.gov.

Summary:

Based on a recommendation of the Attorney General's Government and Regulatory Reform Task Force, the technical amendment to 12VAC5-381-170 removes the expired deadline for qualifying individuals designated by January 1, 2006, to perform the home care organization administrator's duties in his absence. The amendments to 12VAC5-381-180 and 12VAC5-381-200 reflect changes to § 32.1-162.9:1 of the Code of Virginia by Chapter 415 of the 2010 Acts of Assembly related to home care organizations developing policies for maintaining a drug-free workplace and reporting positive results of any drug test administered to the appropriate health regulatory board of the Department of Health Professions.

12VAC5-381-170. Administrator.

A. The governing body shall appoint as administrator an individual who has evidence of at least one year of training and experience in direct health care service delivery with at least one year within the last five years of supervisory or administrative management experience in home health care or a related health program.

B. The administrator shall be responsible for the day-to-day management of the organization, including but not limited to:

1. Organizing and supervising the administrative function of the organization;
2. Maintaining an ongoing liaison with the governing body, the professional personnel and staff;

3. Employing qualified personnel and ensuring adequate staff orientation, training, education and evaluation;

4. Ensuring the accuracy of public information materials and activities;

5. Implementing an effective budgeting and accounting system;

6. Maintaining compliance with applicable laws and regulations and implementing corrective action in response to reports of organization committees and regulatory agencies;

7. Arranging and negotiating services provided through contractual agreement; and

8. Implementing the policies and procedures approved by the governing body.

C. The individual designated to perform the duties of the administrator when the administrator is absent from the organization shall be able to perform the duties of the administrator as identified in subsection B of this section.

~~Organizations shall have one year from January 1, 2006, to ensure that individuals currently designated are qualified.~~

D. The administrator or his designee shall be available at all times during operating hours and for emergency situations.

12VAC5-381-180. Written policies and procedures.

A. The organization shall implement written policies and procedures approved by the governing body.

B. All policies and procedures shall be reviewed at least annually, with recommended changes submitted to the governing body for approval, as necessary.

C. Administrative and operational policies and procedures shall include, but are not limited to:

1. Administrative records;
2. Admission and discharge or termination from service criteria;
3. Informed consent;
4. Advance directives, including Durable Do Not Resuscitate Orders;
5. Client rights;
6. Contract services;
7. Medication management, if applicable;
8. Quality improvement;
9. Mandated reporting of abuse, neglect and exploitation pursuant to § 63.2-1606 of the Code of Virginia;
10. Communicable and reportable diseases;
11. Client records, including confidentiality;

12. Record retention, including termination of services;

13. Supervision and delivery of services;

14. Emergency and on-call services;

15. Infection control;

16. Handling consumer complaints;

17. Telemonitoring; and

18. Approved variances.

D. Financial policies and procedures shall include, but are not limited to:

1. Admission agreements;

2. Data collection and verification of services delivered;

3. Methods of billing for services by the organization and by contractors;

4. Client notification of changes in fees and charges;

5. Correction of billing errors and refund policy; and

6. Collection of delinquent client accounts.

E. Personnel policies and procedures shall include, but are not limited to a:

1. Written job description that specifies authority, responsibility, and qualifications for each job classification;

2. Process for maintaining an accurate, complete and current personnel record for each employee;

3. Process for verifying current professional licensing or certification and training of employees or independent contractors;

4. Process for annually evaluating employee performance and competency;

5. Process for verifying that contractors and their employees meet the personnel qualifications of the organization;

6. Process for obtaining a criminal background check and maintaining a drug-free workplace pursuant to § 32.1-162.9:1 of the Code of Virginia; and

7. Process for reporting licensed and certified medical personnel for violations of their licensing or certification to the appropriate board within the Department of Health Professions.

F. Admission and discharge or termination from service policies and procedures shall include, but are not limited to:

1. Criteria for accepting clients for services offered;

2. The process for obtaining a plan of care or service;

3. Criteria for determining discharge or termination from each service and referral to other agencies or community services; and

4. Process for notifying clients of intent to discharge/terminate or refer, including:

a. Oral and written notice and explanation of the reason for discharge/termination or referral;

b. The name, address, telephone number and contact name at the referral organization; and

c. Documentation in the client record of the referral or notice.

G. Policies shall be made available for review, upon request, to clients and their designated representatives.

H. Policies and procedures shall be readily available for staff use at all times.

12VAC5-381-200. Personnel practices.

A. Personnel management and employment practices shall comply with applicable state and federal laws and regulations.

B. The organization shall design and implement a staffing plan that reflects the types of services offered and shall provide qualified staff in sufficient numbers to meet the assessed needs of all clients.

C. Employees and contractors shall be licensed or certified as required by the Department of Health Professions.

D. The organization shall design and implement a mechanism to verify professional credentials.

E. Any person who assumes the responsibilities of any staff position or positions shall meet the minimum qualifications for that position or positions.

F. The organization shall obtain the required sworn statement and criminal record check for each compensated employee as specified in § 32.1-162.9:1 of the Code of Virginia.

G. Each employee position shall have a written job description that includes:

1. Job title;

2. Duties and responsibilities required of the position;

3. Job title of the immediate supervisor; and

4. Minimum knowledge, skills, and abilities or professional qualifications required for entry level.

H. Employees shall have access to their current position description. There shall be a mechanism for advising employees of changes to their job responsibilities.

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I. New employees and contract individuals shall be oriented commensurate with their function or job-specific responsibilities. Orientation shall include:

1. Objectives and philosophy of the organization;
2. Confidentiality;
3. Client rights;
4. Mandated reporting of abuse, neglect, and exploitation;
5. Applicable personnel policies;
6. Emergency preparedness procedures;
7. Infection control practices and measures;
8. Cultural awareness; and
9. Applicable laws, regulations, and other policies and procedures that apply to specific positions, specific duties and responsibilities.

J. The organization shall develop and implement a policy for evaluating employee performance.

K. Individual staff development needs and plans shall be a part of the performance evaluation.

L. The organization shall provide opportunities for and record participation in staff development activities designed to enable staff to perform the responsibilities of their positions.

M. All individuals who enter a client's home for or on behalf of the organization shall be readily identifiable by employee nametag, uniform or other visible means.

N. The organization shall maintain an organized system to manage and protect the confidentiality of personnel files and records.

O. Employee personnel records, whether hard copy or electronic, shall include:

1. Identifying information;
2. Education and training history;
3. Employment history;
4. Results of the verification of applicable professional licenses or certificates;
5. Results of reasonable efforts to secure job-related references and reasonable verification of employment history;
6. Results of performance evaluations;
7. A record of disciplinary actions taken by the organization, if any;
8. A record of adverse action by any licensing bodies and organizations, if any;

9. A record of participation in staff development activities, including orientation; and

10. The criminal record check and sworn affidavit.

P. All positive results from drug testing shall be reported to the health regulatory boards responsible for licensing, certifying, or registering the person to practice, if any, pursuant to § 32.1-162.9:1 of the Code of Virginia.

Q. Each employee personnel record shall be retained in its entirety for a minimum of three years after termination of employment.

Q. R. Personnel record information shall be safeguarded against loss and unauthorized use.

R. S. Employee health-related information shall be maintained separately within the employee's personnel file.

VA.R. Doc. No. R10-2460; Filed July 29, 2010, 10:33 a.m.

Final Regulation

REGISTRAR'S NOTICE: The State Board of Health is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 3 of the Code of Virginia, which excludes regulations that consist only of changes in style or form or corrections of technical errors. The State Board of Health will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 12VAC5-391. Regulations for the Licensure of Hospice (amending 12VAC5-391-10, 12VAC5-391-40).

Statutory Authority: §§ 32.1-12 and 32.1-162.5 of the Code of Virginia.

Effective Date: September 30, 2010.

Agency Contact: Carrie Eddy, Policy Analyst, Department of Health, 3600 West Broad Street, Richmond, VA, telephone (804) 367-5100, or email carrie.eddy@vdh.virginia.gov.

Summary:

The amendments to 12VAC5-391-10 are technical in nature and refer to applicable citations from the Code of Virginia as recommended by the Attorney General's Government and Regulatory Reform Task Force. The amendment to 12VAC5-391-40 reflects changes to § 32.1-162.2 of the Code of Virginia by Chapter 790 of the 2010 Acts of Assembly that extended licensure exemption to hospice programs accredited by national accrediting organizations recognized by the Centers for Medicare and Medicaid.

Part I Definitions and General Information

12VAC5-391-10. Definitions.

The following words and terms when used in these regulations shall have the following meaning unless the context clearly indicates otherwise.

"Activities of daily living" means bathing, dressing, toileting, transferring, bowel control, bladder control and eating/feeding.

"Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient by (i) a practitioner or by his authorized agent and under his supervision or (ii) the patient at the direction and in the presence of the practitioner as defined in § 54.1-3401 of the Code of Virginia.

"Administrator" means a person designated, in writing, by the governing body as having the necessary authority for the day-to-day management of the hospice program. The administrator must be a member of the hospice staff. The administrator, director of nursing, or another clinical director may be the same individual if that individual is dually qualified.

"Attending physician" means a physician licensed in Virginia, according to Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1 of the Code of Virginia, or licensed in an adjacent state and identified by the patient as having the primary responsibility in determining the delivery of the patient's medical care. The responsibilities of physicians contained in this chapter may be implemented by nurse practitioners or physician assistants as assigned by the supervising physician and within the parameters of professional licensing.

"Available at all times during operating hours" means an individual is available on the premises or by telecommunications.

"Barrier crimes" means certain offenses specified in § 32.1-162.9:1 of the Code of Virginia that automatically bar an individual convicted of those offenses from employment with a hospice program.

"Bereavement service" means counseling and support offered to the patient's family after the patient's death.

"Commissioner" means the State Health Commissioner.

"Coordinated program" means a continuum of palliative and supportive care provided to a terminally ill patient and his family, 24 hours a day, seven days a week.

"Core services" means those services that must be provided by a hospice program. Such services are: (i) nursing services, (ii) physician services, (iii) counseling services, and (iv) medical social services.

"Counseling services" means the provision of bereavement services, dietary services, spiritual and any other counseling services for the patient and family while the person is enrolled in the program.

"Criminal record report" means the statement issued by the Central Criminal Records Exchange, Virginia Department of State Police.

"Dedicated hospice facility" means an institution, place, or building providing room, board, and appropriate patient care 24 hours a day, seven days a week to individuals diagnosed with a terminal illness requiring such care pursuant to a physician's orders.

"Dispense" means to deliver a drug to the ultimate user by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling or compounding necessary to prepare the substance for that delivery as defined in § 54.1-3401 of the Code of Virginia.

"Employee" means an individual who is appropriately trained and performs a specific job function for the hospice program on a full or part-time basis with or without financial compensation.

"Governing body" means the individual, group or governmental agency that has legal responsibility and authority over the operation of the hospice program.

"Home attendant" means a nonlicensed individual performing personal care and environmental services, under the supervision of the appropriate health professional, to a patient in the patient's residence. Home attendants are also known as certified nursing assistants or CNAs, home care aides, home health aides, and personal care aides.

~~"Hospice" means a coordinated program of home and inpatient care provided directly or through an agreement under the direction of an identifiable hospice administration providing palliative and supportive medical and other health services to terminally ill patients and their families. A hospice utilizes a medically directed interdisciplinary team. A hospice program of care provides care to meet the physical, psychological, social, spiritual and other special needs that are experienced during the final stages of illness, and during dying and bereavement. Hospice care shall be available 24 hours a day, seven days a week hospice as defined in § 32.1-162.1 of the Code of Virginia.~~

"Inpatient" means services provided to a hospice patient who is admitted to a hospital or nursing facility on a short-term basis for the purpose of curative care unrelated to the diagnosed terminal illness. Inpatient does not mean services provided in a dedicated hospice facility.

"Interdisciplinary group" means the group responsible for assessing the health care and special needs of the patient and the patient's family. Providers of special services, such as mental health, pharmacy, and any other appropriate

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associated health services may also be included on the team as the needs of the patient dictate. The interdisciplinary group is often referred to as the IDG.

"Licensee" means a licensed hospice program provider.

"Medical director" means a physician currently licensed in Virginia, according to Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1 of the Code of Virginia, and responsible for the medical direction of the hospice program.

"Medical record" means a continuous and accurate documented account of services provided to a patient, including the prescription and delivery of the treatment or care.

"Nursing services" means the patient care performed or supervised by a registered nurse according to a plan of care.

"OLC" means the Office of Licensure and Certification of the Virginia Department of Health.

"Operator" means any individual, partnership, association, trust, corporation, municipality, county, local government agency or any other legal or commercial entity responsible for the day-to-day administrative management and operation of the hospice.

"Palliative care" means treatment directed at controlling pain, relieving other symptoms, and focusing on the special needs of the patient and family as they experience the stress of the dying process. Palliative care means treatment to enhance comfort and improve the quality of a patient's life during the last phase of his life.

~~"Patient" means a diagnosed terminally ill individual, with an anticipated life expectancy of six months or less, who, alone or in conjunction with designated family members or representatives, has voluntarily requested admission and been accepted into a licensed hospice program hospice patient as defined in § 32.1-162.1 of the Code of Virginia.~~

~~"Patient's family" means the hospice patient's immediate kin, including spouse, brother, sister, child or parent. Other relations and individuals with significant personal ties to the hospice patient may be designated as members of the patient's family by mutual agreement among the patient, the relation or individual a hospice patient's family as defined in § 32.1-162.1 of the Code of Virginia.~~

"Patient's residence" means the place where the individual or patient makes his home.

"Person" means any individual, partnership, association, trust, corporation, municipality, county, local government agency or any other legal or commercial entity that operates a hospice.

"Plan of care" means a written plan of services developed by the interdisciplinary group to maximize patient comfort by symptom control to meet the physical, psychosocial, spiritual

and other special needs that are experienced during the final stages of illness, during dying, and bereavement.

"Primary caregiver" means an individual that, through mutual agreement with the patient and the hospice program, assumes responsibility for the patient's care.

"Progress note" means a documented statement contained in a patient's medical record, dated and signed by the person delivering the care, treatment or service, describing the treatment or services delivered and the effect of the care, treatment or services on the patient.

"Quality improvement" means ongoing activities designed to objectively and systematically evaluate the quality of care and services, pursue opportunities to improve care and services, and resolve identified problems. Quality improvement is an approach to the ongoing study and improvement of the processes of providing services to meet the needs of patients and their families.

"Staff" means an employee who receives financial compensation.

"Supervision" means the ongoing process of monitoring the skills, competencies and performance of the individual supervised and providing regular face-to-face guidance and instruction.

"Terminally ill" means a medical prognosis that life expectancy is six months or less if the illness runs its usual course.

"Volunteer" means an employee who receives no financial compensation.

12VAC5-391-40. Exemption from licensure.

~~A. According to § 32.1-162.2 of the Code of Virginia, this chapter is not applicable to a hospice established or operated for the practice of religious tenets of any recognized church or denomination that provides care and treatment for the sick by spiritual means without the use of any drug or material remedy, whether gratuitously or for compensation. Such a hospice shall comply with the statutes and regulations governing environmental protection and life safety. This chapter is not applicable to hospice programs described in § 32.1-162.2 of the Code of Virginia.~~

B. The hospice program must file a request for exemption from licensure in writing to the director of the OLC. The request shall contain documentation explaining the hospice program's relationship to the practice of religious tenets of a recognized church or denomination.

C. The hospice program shall be notified in writing that the exemption from licensure has been registered.

D. Exempt hospice programs shall remain subject to complaint investigations in keeping with state law.

VA.R. Doc. No. R10-2462; Filed July 29, 2010, 10:33 a.m.