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Promoting and protecting the health of the public and the environment

August 13, 2015

TO: Members of the regulated community.

FROM: Gwendolyn C. Thompson, Chief, Bureau of Health Facilities Licensing

RE: Distinctions between in-home care services and home health services.

After receiving inquiries, the Department offers this guidance explaining in-home care and home health services as well as the licensure requirements for offering such services.

In-home care services

In-home care is primarily intended to assist an individual with an activity of daily living (ADL) or in meeting a personal rather than a medical need, but not including skilled care or specific therapy for an illness or injury. ADLs include, but are not limited to, walking, getting in and out of bed, bathing, and dressing, feeding, using the toilet, preparing special diets, and supervising self-administered medications. In-home care is personal in nature, but does not require continuing attention or supervision from trained and licensed medical personnel.

If a business entity, corporation, or association directly provides or makes provision for in-home care, as described above, for compensation and (a) through its own employees or agents, (b) through contractual arrangements with independent contractors, or (c) through referral of other persons to render in-home care when the individual making the referral has a financial interest in delivery of those services, then the entity must obtain a license. The following are not in-home care providers and need not obtain a license:

- A home health agency or hospice or an entity licensed pursuant to S.C. Code Ann. § 44-7-260ⁱ;
- An individual or agency who provides only a house cleaning service;
- A residential program operated or contracted for operation by the Department of Mental Health (DMH) or the Department of Disabilities and Special Needs (DDSN) (*see* S.C. Code Ann. § 44-7-2910(B)(2)(e));
- A person employed by or under contract with a direct care entityⁱⁱ whose duties include the possibility of patient or client contact (*see* S.C. Code Ann. § 44-7-2910(B)(2)(e));
- An individual who provides a service or services pursuant to DDSN's Family Support Program;
- An individual hired directly by the person receiving care or hired by his family; or
- A church or religious institution recognized as a 501(c)(3) organization by the Internal Revenue Service that provides in-home care without compensation or for a nominal fee collected to cover incidental expenses directly related to such care.

Home health services

Home health services are items and services furnished to an individual on a visiting basis and in a place of temporary or permanent residence used as the individual's home. Home health services consists of part-time or intermittent skilled nursing care as ordered by a physician and provided under the supervision of a registered nurse and at least one other of the following services:

- Physical, occupational, or speech therapy;
- Medical social services, home health aide services and other therapeutic services;

- Medical supplies and the use of medical appliances;
- Any of the foregoing items and services which are provided on an outpatient basis under arrangements made by the home health agency with a hospital, nursing facility, or rehabilitation center and the furnishing of which involves the use of equipment of such a nature that the items and services cannot be readily available to the individual in his home, or which are furnished at such facility while the patient is there to receive such items or services, but not including transportation of the individual in connection with any such items or services.

If a public, nonprofit, or proprietary organization, whether owned or operated by one or more persons or legal entities furnishes or offers to furnish home health services, as described above, the organization must obtain a license from the Department.

Separate offerings by in-home care providers

Some in-home care providers, in addition to providing in-home care, provide separate services that either the Department does or does not regulate. For example, an entity licensed as an in-home care provider may also provide private duty nursing, which generally consists of skilled nursing care on a full-time, continuous, and long-term basisⁱⁱⁱ. This entity should maintain separate lines of business between its in-home care offerings and private duty nursing offerings. To determine compliance with Regulation 61-122, the Department will review, among other things, caregiver criminal background checks, training records, health assessments, and other required documentation. Because the Department does not regulate the provision of private duty nursing, the Department will not review records of staff members who *only* provide private duty nursing. If the staff member provides in-home care and private duty nursing, the staff member would be considered an in-home caregiver, and the in-home care provider must comply with all Regulation 61-122 provisions concerning that in-home caregiver. The Department expects in-home care providers that provide other services in addition to in-home care maintain separate lines of business to distinguish the in-home care offerings from the other offerings and to ensure compliance with Regulation 61-122.

ⁱ Entities licensed pursuant to S.C. Code Ann. § 44-7-260 include hospitals, nursing homes, residential treatment facilities for children and adolescents, ambulatory surgical facilities, community residential care facilities, facilities for chemically dependent or addicted persons, end-stage renal dialysis units, day-care facilities for adults, intermediate care facilities for persons with intellectual disability, freestanding or mobile technology, facilities wherein abortions are performed, birthing centers, and any other facility operating for the diagnosis, treatment, or care of persons suffering from illness, injury or other infirmity and for which the Department has adopted standards of operation by regulation.

ⁱⁱ Pursuant to S.C. Code Ann. § 44-7-2910(B), a direct care entity includes nursing homes, daycare facilities for adults, home health agencies, community residential care facilities, residential programs operated or contracted for operation by DMH or DDSN, residential treatment facilities for children and adolescents, hospice programs, and in-home care providers.

ⁱⁱⁱ See 42 C.F.R. 440.80. Home health services, by contrast, consists of part-time or intermittent skilled nursing care and at least one of the aforementioned services. See S.C. Code Ann. § 44-69-20(5) and 6 S.C. Code Ann. Regs. 61-77 § 101.H.