Rhode Island Partnership
for Home Care

Advancing quality healthcare at home

December 22, 2023

VIA EMAIL: zachary.garceau@health.ri.gov

Zachary Garceau
Chief of Program Development
Department of Health
State of Rhode Island
3 Capitol Hill
Providence, RI 02908

Re: Proposed Revisions to 216-RICR-40-10-17 "*Licensing of Home Nursing Care Providers and Home Care Providers*"

Dear Mr. Garceau,

The Rhode Island Partnership for Home Care, hereafter referred to as "The Partnership", supports many aspects of the proposed amendments, such as, but not limited to an accreditation requirement to enhance quality healthcare service delivery and reduce the administrative burden of duplicative site inspections for those providers that are accredited, inservice requirements that support protecting patient/client information in accordance with the Health Insurance Portability and Accountability Act of 1996 and transparency with patients/clients on their plan of care documentation. However, we have specific suggestions and questions for the amendments as proposed by the Rhode Island Department of Health, hereafter referred to as "RIDoH":

1) **17.4.5(B)** proposes a change from thirty (30) days to sixty (60) for the voluntary cessation of a license. This is unrealistic based on precedent. Two of the largest home nursing care providers in the state at the time, Homefront Health Care (August 2017) and the VNA of Rhode Island (December 2017), each closed their operations in less than 30 days due to extreme financial hardship. Since voluntary cessation usually occurs as a result of a catastrophic event, mainly financial reasons, and is not subject to a hearing process, such as a Change of Effective Control, RIDoH needs to be reasonable and sensitive to providers that are turning in their license. While RIDoH does not oversee payments and contracts that providers receive, RIDoH leadership and their staff should have an understanding of how nimble home care and home nursing care providers' operations are in this state due to inadequate reimbursement by Medicare, Medicaid and commercial health insurers. Specific to Medicaid, the absurdity of rates in Rhode Island that are 49.1% to 74.5% below the average compared to other New England states and the immediate need for payment reform was most recently articulated by the Rhode Island Office of the Health Insurance Commissioner in a public report released on September 1, 2023. The Partnership proposes that this amendment be reverted to the current text of 30 days and add the phrase ", when possible or otherwise ordered by a state or federal court," immediately following "30 days".

2) **17.5.1(C)(8)** proposes a mandate of national accreditation, but does not express a timeline for the initiation of this process in order to maintain good standing for licensure renewal. The Partnership proposes

removing the word "~~national~~" and adding the following two sentences: "Initial accreditation must be achieved within one (1) complete calendar year following the year in which the home care provider or home nursing care provider is initially licensed in order to maintain said license in good standing. The department recognizes accreditation only from The Joint Commission, Community Health Accreditation Partner, Accreditation Commission for Health Care and Rhode Island Partnership for Home Care."

3) **17.5.1(G)(2)**: Can RIDoH further define "*the assistance of a qualified safety, emergency management and/or other appropriate experts*"? Would utilizing a sample plan provided by an accrediting organization or the Rhode Island Partnership for Home Care for the provider to develop their own plan in compliance with this proposed regulation meet this proposed requirement?

4) **17.5.1(G)(3)**: What internal systems and/or equipment failures that require backup procedures is RIDoH referring as it relates to home care service delivery? Because home care services are not provided in one "brick and mortar" facility, nor is there significant medical equipment controlled by the home care provider without responsibility and oversight of a physician licensed by RIDoH in which causes the patient/client to experience a life-threatening emergency, The Partnership proposes eliminating this proposed amendment.

5) **Alternate 17.5.1(G)(3)**: The Partnership proposes that RIDoH add an amendment that requires RIDoH to notify home care providers and home nursing care providers of any emergency in which can impact patient/client care services in the home. The Partnership has several examples from the Aquidneck Island utility outage in January 2019, several blizzards and hurricanes over the years, to most recently, last week's Washington Bridge critical failure and subsequent shutdown in which notification by RIDoH was either insufficient or non-existent. Home care providers and home nursing care providers cannot adequately and reasonably activate their respective emergency plans in a timely manner if administrators are only learning about emergencies from their patients/clients, staff or other third-parties or the local news media if the administrator has the time to listen to the radio or watch the news without any communication directly from RIDoH. While we support accountability for providers' administrators, we should agree that RIDoH leadership should also hold themselves accountable to providers.

6) **17.5.3(D)**: RIDoH needs to further define what "*infection control measures*" need to be included for staff at orientation or continuing education other than what is already required under their respective professional or paraprofessional licensure requirements or by a provider's accreditation organization standards. Has RIDoH consulted with all of the accreditation organizations to ensure that there will be no conflicts in measures with this proposed amendment? It also needs to further define "staff" as personnel that are not responsible nor licensed for direct care should be exempted from this inservice requirement. Infection control measures are different for home nursing care providers than home care providers and for home-based care than facility-based care as home-based care, especially home care providers that do not offer, nor are licensed for skilled nursing services rendered in the home, has limited control of infection prevention based on the healthcare service delivery environment in which providers' staff practice.

7) **17.5.1(H)(2)**: The Partnership disagrees with the proposed amendment to broaden homemaker supervision to a "*nurse*". While licensed practical nurses, hereafter referred to as "LPNs", are valuable staff to home nursing care providers, LPNs do not have the professional education, nor the scope of practice under their license to supervise staff.

8) **17.6.4(A)(1)(b)**: Home care providers and home nursing care providers do not "*treat patients*" with any illness. That is the responsibility of physicians licensed by RIDoH. Rather, home nursing care providers follow physician orders for care in the home. Furthermore, because home nursing care providers deliver services in the homes of their patients/clients, they are not "residents". The Partnership proposes that this amendment be rephrased as follows: "Management ~~and treatment~~ of ~~residents/~~patients/clients with

Alzheimer's disease;".

9) **17.6.4(A)(1)(c)**: Can RIDoH define "*non-clinical*" staff? Is it safe to assume that RIDoH is proposing to exempt personnel that are not responsible, nor licensed for direct care? If so, The Partnership proposes that RIDoH strike the proposed amendment in its entirety and replace it with the following: "Training of licensed professionals and paraprofessionals responsible for patients/clients that have or are at risk for Alzheimer's disease".

10) **17.8.1(C)(5)**: Due to the ongoing healthcare worker staffing crisis impacting all provider settings across the state, it would be difficult for home care providers and home nursing care providers to comply with the service hours scheduled provision as proposed in this amendment. Service hours may change on a weekly basis based on workforce availability and the individual needs of each patient/client. Of course, it is an industry practice to notify the patient/client or their designated contact of any changes to the schedule as they arise. The Partnership is proposing to strike and amend that provision as follows: "Copies of the plan of care ~~and the number of service hours scheduled~~ shall be provided to the patient/client upon admission and as revised."

Please provide me with a response to my questions and proposed revisions ahead of finalizing these proposed amendments. The members of my association, as experts of our industry within the healthcare sector, offer their willingness to meet with you and RIDoH leadership. It is our hope that we can discuss the content of this letter and partner with RIDoH to improve these operating regulations as proposed.

Sincerely,

Nicholas Oliver

Nicholas Oliver, MPA, CAE
Executive Director