



Elder Law Project

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TO: Legislative Committee on Administrative Rules (LCAR)

FROM: Michael Benvenuto, Project Director, Elder Law Project;
Leah Burdick, Staff Attorney, Elder Law Project

SUBJECT: 25P021 Proposed Rules for the Designation and Operation of Home Health Agencies

DATE: March 16, 2026

Vermont Legal Aid has a long history of advocacy throughout Vermont on behalf of low-income individuals, individuals with disabilities, and individuals aged 60 and older, including those on Long Term Care Medicaid Choices for Care (CFC). We offer these additional comments for the consideration of LCAR on the Department’s proposed revisions to the Designation and Operation of Home Health Agencies (HHAs) Rules. We also echo the comments submitted to your committee by Kaili Kuiper, State Long Term Care Ombudsman and Director of the Vermont Long-Term Care Ombudsman Program.

We thank the Department for taking into consideration our previous comments and making several of our suggested revisions. **We still have serious concerns with the Department’s proposal to remove “Unskilled Services” (personal care, homemaker, respite, or companionship services) from the definition of “Designated Services.”** Unskilled services, which often include bathing, meal preparation, and house cleaning, are a critical component of a person’s care plan. Home health aides perform vital tasks for very vulnerable people, many of whom are isolated and homebound. The designation system has ensured that every eligible client has an agency that will serve them (if the client is able to follow the rules). The loss of the designation system for unskilled services will marginalize patients who are already living on the edge due to poverty, aging and disability.

As we stated to the Department, Vermont Legal Aid anticipates those clients who have complex needs or who are challenging to serve will no longer get any unskilled services at all, from any agency. The private home health agencies anticipated by the Department to fill the unskilled services gap may choose to only serve the clients who are easier to serve and discriminate against those with more challenging needs, such as those with more complex medical or behavior issues, or those with serious mental illnesses. This could result in an unequitable and discriminatory system of care, contrary to the legislative intent of a

coordinated, accessible and easily navigable system under the *Older Vermonters Act*, 33 V.S.A. § 6202. Without a designated agency responsible for providing these critical housekeeping and personal care services, vulnerable clients are at a higher risk for poorer health and socio-economic outcomes.

In response to VLA's concerns, the Department stated that they believed that "many" HHAs will still provide unskilled services, even if they are not required to do so. The explicit reason for this change in designated services was to address the multiple providers currently out of compliance. We do not understand why the Department is making this change if it has confidence that providers will have the capacity to provide these services. It already provides HHAs variances when agencies cannot provide nonskilled services due to staffing (avoiding citations for noncompliance), and 33 V.S.A. § 6307 already permits the Commissioner to enter into agreements with non-designated agencies to provide unskilled services. Changing the rule in this way seems unnecessary when there are already solutions being implemented.

The impetus for the changing of this rule seems to be primarily for the convenience of HHAs and not for the health and well-being of Vermonters. While workforce challenges present barriers to providing care, we do not think removing the requirement altogether to provide critical, non-skilled care will solve the problem. Thank you for the consideration of these comments.