



The NARA Vision Series

Part I:

Recommended Best Practices for Human Care Regulatory Agencies

First Edition

Approved for Release 3/29/2009
Board of Directors,
National Association for Regulatory Administration


nara

Consumer Protection Through Prevention

National Association for Regulatory Administration

403 Marquis Avenue Suite 200 • Lexington, KY 40502 • 859-514-1921

Foreword

The National Association for Regulatory Administration (NARA) was founded in 1976 to support human care regulators, whose mission to safeguard vulnerable populations in day and residential care settings. Those populations span the human experience . . . from infants to frail elderly . . . both with and without significant challenges in the physical, cognitive, social, and emotional realms of their lives . . . and all with individual and group differences that must be respected and developed through their encounters with the services and people that shape their lives while they are in care.

NARA's role is to strengthen the knowledge and skills of regulators charged by their states and provinces with the responsibility to apply laws and regulations designed to protect and preserve consumers' health, safety and functional well-being. Equally important, they also safeguard and enrich lives through the extensive technical assistance and other forms of support and knowledge sharing provided to facility managers and personnel. Yet, the training and education available to professional regulators is extremely limited when compared to the breadth and complexity of the knowledge and skills demanded by their roles and legal responsibilities.

Accordingly, NARA is currently engaged in a comprehensive, multi-dimensional project to strengthen concepts and practices in the profession. This document, the first released in the project Series, *The NARA Vision*, is NARA's *Recommended Best Practices for Human Care Regulatory Agencies*. This document defines the key system characteristics of high-performing agencies. Its companion document will follow shortly; this self-study and planning tool is designed to help agencies score the best-practice indicators consistently, to rate their agencies against best-practice criteria, and to plot a course toward excellence. NARA views this First Edition of *Best Practices for Human Care Regulatory Agencies* as a living document and invites questions as well as suggested improvements for subsequent editions. These may be sent to: Carolynne Stevens, Vice-President for Professional Development and Education, carolynne.stevens@naralicensing.org

Additional documents to be released in this series in the coming months will describe other components of the project. Some of these are already underway, such as online courses with NARA's partner, The University of Southern Maine, Muskie School of Public Services, and expansion of NARA's direct training and consultation services available to states and provinces. Some are on the immediate horizon, such as a credentialing system that will begin with successful completion of the online courses. Others are conceptualized but await a funding, such as the proposed center for regulatory studies that will focus on such areas as research, the development of model laws, policies, and regulations, and the development of expanded support to regulated industries and consumer advocacy groups.

We invite you to Come Grow with NARA. Please visit us on the web: www.naralicensing.org

Ann Ditty, President
National Association for Regulatory Administration

Table of Contents

I. General Management and Administration System	Pages 5 - 9
a. Leadership, Communications and Public Stakeholder Relations	Pages 5 - 6
b. Planning, Monitoring, and Controlling	Page 6
c. Staffing, Organizing and Directing	Pages 6 - 8
d. Budgeting and Management Support Services	Pages 8 - 9
II. Policy Management System, Including Laws and Regulations	Pages 9 - 12
a. Statutory Base	Pages 9 - 11
b. Regulations	Pages 11 - 12
III. Enforcement System	Pages 13 - 15
IV. Training and Staff Development System	Pages 16 - 18
a. Training Services Meet High Standards of Quality in Adult Education Design and Delivery	Pages 16 - 17
b. Staff Development and Provider Training Programs are Well-planned, Monitored and Evaluated, Respond to Identified Needs, Both Existing and Emergent, and are Integrated into all Agency and Unit Operating Plans	Pages 17 - 18
V. NARA Contacts	Page 19

Introduction

Quality improvement experts correctly take the position that most performance problems are system-problems rather than people-problems. The overwhelming majority of people want to do a good job. They flourish when they can see themselves as knowledgeable contributors in a sharp, high-performing organization. These program performance benchmarks, accordingly, are grouped along the fundamental responsibilities of management.

We recommend that agencies assess their program systems and associated functions and tasks before gearing up to meet the Agency-level Training and Education Track (ALTET) competencies, which are a prerequisite for NARA credentialing beyond Level 1 (core knowledge). Otherwise, agencies may waste time and resources in a fruitless attempt to overcome system faults with training. The primary purpose of all staff development is to ensure correct, consistent, and professional execution of the program. Achieving this outcome, however, requires that:

- (1) the program components are clear, complete, well documented, and internally consistent and synergistic, and that
- (2) these components are conscientiously applied throughout the organization.

Agencies may not fully meet all *Best Practices* benchmarks initially. Some gaps certainly can be closed within a short period. Other gaps (e.g., those most affected by funding and staffing shortages or by seriously flawed statutes or lack of political support) will require the agency to commit to longer range strategies. The latter strategies usually should be combined with internal compensatory actions designed to minimize the impacts on agency performance until the underlying problems can be overcome, i.e., the agency must use concurrent, incremental strategies aimed at changing both internal and external operating environments.

NARA will shortly issue an assessment and planning workbook, *Achieving the Vision*, a workbook for agencies to rate their program systems, functions, and key tasks with best practice benchmarks and associated staff competencies. The workbook is intended to help agencies accomplish at least three things. First, it will give agencies an initial indication of improvement opportunities in their agency staff development programs. Second, it can illuminate procedures or practices that need improvement in order to deliver organizationally coherent staff development that promotes the ALTET competencies. Third, using this structured assessment and planning process can give interested agencies a clearer sense of direction about initiating a longer range planning process aimed at bringing their systems up to best-practice benchmarks, including those systems that are less within their control.

NARA's long-range efforts are expected to include an agency-accreditation service based, in part, on *Best Practices*. As a bonus, agencies will acquire the means to articulate stronger justification for building their structural budgets around nationally endorsed performance indicators for agencies and their staffs. Perhaps most important of all, candid assessment, clear goals, and strong planning to actively engage the skills and creativity of all staffs almost always increase professional motivation and pride. When these are present, excellence will follow.

Characteristics of Key Systems in Strong Regulatory Agencies

NOTE: Characteristics (indicators) are stated at the summative, outcome level. Precursor processes and skills should be inferred for improvement planning purposes, including those related to instructional design and delivery in staff development functions.

I. GENERAL MANAGEMENT AND ADMINISTRATION SYSTEM

Agency management works systematically to achieve continuous improvement in all facets of the program by being systems-focused and information-driven in conducting the full range of management functions, tasks, roles, and responsibilities. These are approached in an integrated method both within and across internal functions, in external linkages and coordination, and in human resource management.

a. Leadership, Communication and Public-stakeholder Relations

All agency practices, both programmatic and business/administrative, are conceived, planned, and executed to the highest standards of consumer protection, professional ethics, public stewardship, and operational transparency in the pursuit of effective, efficient public service.

- i. Establishes planned methods to maintain visibility, communications and responsiveness to key stakeholders, including relevant trade and professional associations, advocacy groups and, within host-agency guidance, members/staffs of executive and legislative offices/committees and news media. Methods provide for broad staff involvement and visibility in a variety of settings and events, e.g., use of standing and ad hoc advisory groups, conference attendance and formal presentations, dialogue and training meetings, etc.
- ii. Establishes and maintains effective methods for intra-agency and inter-agency outreach and coordination needed for effective regulation and services to care-consumers. The agency collaborates appropriately and effectively with other administrative or law-enforcement agencies for services, investigation, or prosecution.
- iii. Identifies the recurring information needs of its staffs and its publics, periodically issues correct, informative performance information about the program, and, as appropriate, distributes agency-initiated or externally assigned special reports. Builds a culture that encourages staffs to read broadly and share relevant research/information with others in the organization and to participate actively in agency strivings for excellence.

NOTE: When used in this document, “research” is intended to refer to high quality research that meets recognized standards of scholarship, e.g., is peer-reviewed; presents well-defined, well-described, logically justified methodology; includes review of pertinent literature; uses appropriate design and analysis methods; meets usual validity principles; discusses methodological weaknesses and additional study needed as well as potential applicability of results, etc. For more extensive description, you can also go to following additional sites:
www.researchconnections.org/Discover?displayPage=researchquality.jsp or
<http://wps.prenhall.com/wps/media/objects/1532/1569569/checklists/chap07b.pdf>

- iv. Provides accurate and timely information to the public, e.g., responds to Freedom of Information Act requests; makes informational and technical assistance presentations to civic/advocacy/trade-association groups; provides consumers and families with appropriate assistance and makes appropriate referrals for those with needs that are not regulatory in nature; and, provides information and appropriate assistance to news media according to host-agency guidance.
- v. Within statutory and confidentiality boundaries, promptly provides the public and consumers with information about the performance of the agency and licensed facilities. Inspection and sanction reports are online and remain online for a period of *at least* 3-4 years, preferably longer.
- vi. Uses a structured process to channel and coordinate effective interface with legal staff to secure consultation (i.e., seeks the practice of “preventive law”) when dealing with legal-risk decisions and to support agency decision-making in both policy formulation and enforcement/litigation.

b. Planning, Monitoring, and Controlling

The organization as a whole has a culture that supports operating with plans and being accountable for results in pursuit of continuous improvement.

- i. Generates regular strategic and operating plans for the program and monitors achievement of deadlines and targets/results. Updates plans at regular intervals and modifies plans within their effective dates if circumstances dictate.
- ii. Maintains and tracks unit level and individual work plans for ongoing tasks and for strategic/operating plan initiatives.
- iii. Provides performance expectations (time and quality criteria) for recurring programmatic and business tasks.
- iv. Develops and oversees enforcement performance standards, procedures, and protocols to achieve consistent enforcement. The process includes methods to detect and evaluate deviations and to ensure consistent, correct interpretation and enforcement.
- v. Uses a formal continuous quality improvement philosophy, system, and methods that involve *all* staffs in planning and achieving quality improvement. Sets clear performance benchmarks that are monitored systematically through planned information gathering methods, necessary follow-up actions, and incremental elevation of those benchmarks to improve organizational performance.
- vi. Maintains a research-based risk-assessment method whereby industry-wide and facility-specific risks, including both immediate and cumulative risks, are identified and prioritized; focuses inspections and technical assistance accordingly; and, applies the agency’s enforcement continuum systematically to avert or abate priority risks, to build consistent compliance, and to improve overall consumer protection across all relevant domains.

c. Staffing, Organizing and Directing

The agency develops and follows a staffing plan that takes into account effective workloads and supervisory/managerial span of control. The plan is used as a basis for staffing requests. The plan is also used as the basis for reductions or reassignments when the agency is faced with budget cuts or insufficient staffing. Staffs are provided clear duties and responsibilities and timely access to feedback and assistance.

- i. Has and periodically updates its general staffing plan using sound assessment and calculation methods. Jobs are periodically reviewed for proper classification, salary structure/equity, span of control, and for knowledge and skill sets. Recruitment and retention are generally effective for program stability, including succession planning.

NOTE: There is no effective *universal* staff-to-facility workload standard. Effective workload standards must be set by each agency through a systematic examination of how its situation affects the key workload variables that drive staffing needs in each program system. Agency differences in the number and types of industries under regulation and the division of labor between agency and host-agency in the provision of support functions also affect staffing needs. Staffing standards should be reviewed periodically as changes in the agency's operating environment may increase or decrease the staffs needed to accomplish thorough, professional results efficiently. Some variables to examine include:

- number of regulated facilities and the proportion of new to established facilities;
 - number and rate of new and renewal applications filed
 - travel time required to service the caseload, including both traffic congestion delays and driving distance;
 - schedules of mandated inspections;
 - number and complexity of regulations being applied;
 - administrative time (e.g., planning; meetings; record keeping and reporting requirements; supervisory and review conferences; training; leave);
 - number and nature of complaints, number of low-compliance facilities, adverse enforcement, and suppression of illegal operations, all of which require extra inspections and consume more time per facility;
 - experience and competency levels of both licensing staffs and providers;
 - extent of support staff available either within the agency or through the host agency;
 - nature of information systems and equipment;
 - complexity of setting types in caseloads;
 - nature of the populations in care (e.g., relatively well vs. serious health/social issues and medications);
 - facility sizes (e.g., 8-bed facility vs. 300-bed facility or family care home vs. 20-classroom center),
 - etc.
- ii. The staffing plan includes internal access to specialized knowledge needed to support ongoing activities to protect the populations, such as internal experts in health, child development, geriatric care, research, adult education, technology, etc.
 - iii. Arranges organizational structure, geographic service areas, and deployment patterns for efficient and effective program delivery. These elements are reviewed periodically and when significant changes occur in the workload. The recommended interval for routine reviews is 1-3 years, depending on changes in numbers of regulated facilities, by office area and by inspector, and complaints. These are significant staffing drivers and easy to check to determine whether to expand the review.

- iv. Has methods in place to redistribute workloads and redeploy positions equitably, including methods to cover essential work during temporary over-loads or extended absences, such as illnesses, vacancies, educational leave, or military deployments. Desk-procedures and designated back-ups are in place to cover absences and peak-loads and are sufficiently detailed for temporary staffs from outside the agency to use effectively.
- v. Maintains effective organizational teamwork and actively uses individual and composite skill sets in furtherance of organizational and individual development.
- vi. Establishes job qualifications and job expectations that are clear, complete, and up-to-date; and, systematically monitors performance for correct implementation and response. Expectations for job safety and for all site safety and information system security procedures are clear and diligently followed. Supervisory conferences and unit meetings occur at prescribed, regular intervals and as needed to support growth or to resolve performance issues. A typical pattern is weekly conferences to review/approve case actions and monthly unit meetings for work-planning and skill-building.
- vii. Develops and regularly revises a standard operating procedures manual that effectively details agency procedures and resources for both administrative and program staffs, e.g., processing checks, inspection and enforcement methods and protocols, etc.
- viii. Establishes systems to implement state and host agency Human Resources policies and protocols; institutes other appropriate practices aimed at recruiting, selecting, and retaining the scarce and diversely talented human assets required to operate a high-performing regulatory agency.

d. Budgeting and Management Support Services

The agency's business support services unit sustains the program by ensuring high standards of stewardship, providing efficient work conditions, ensuring effective use of funds, and providing business intelligence that is useful to all units and staffs.

- i. Establishes business practices that are sound, forward-looking, and designed to secure what the program needs to function effectively and to comply with all internal and external requirements, e.g., budget forecasting and preparation, fiscal controls/accountability to stay within funds available, observance of procurement requirements, prompt collection and accounting for fees, fines, and sales revenues, etc. Payments are timely, accounting practices are prompt and sound, and few if any errors are found during formal audits.
- ii. Establishes and maintains a robust automated system that supports the agency and its users as a whole, allows efficient data collection and generates an array of recurring and ad hoc management reports: that support both internal and external inquiries/research; that strengthen program management and improvement efforts; and that enhance effective communications and training.
- iii. Establishes and maintains comprehensive information support. This includes a well-planned and conscientiously implemented paper and electronic records management systems with lawful and practical retention and purging rules. Data collection and reporting systems from all parts of the agency are accurate and current. The

automated information and knowledge management systems are designed for efficient and effective support for the agency's information needs, e.g., avoid or minimize redundant data entry, provide web-based support for public and for internal customers, readily allow recurring and ad hoc reports requiring integration of information across the systems, generate and distribute routine tracking and monitoring reports, etc. When practicable, the agency's system can interact conveniently with relevant external information systems as well.

- iv. Establishes and maintains methods to ensure that agency staffs correctly use and manage both individually assigned and common-usage equipment, supplies, vehicles and services. Inventory systems are in place to account for equipment and to prompt timely reordering of consumables.
- v. Establishes a business management team assigned to maintain regular contact and coordination with host-agency/other peers and technical experts to ensure that the agency has the advantage of relevant expertise and support and that provides advance knowledge of relevant business intelligence.
- vi. Establishes office/business management processes and supports that are task-suitable and effective, e.g., equipment, vehicles, supplies, maintenance, work-space, leases, etc., are provided and maintained timely, including methods for planned replacement of equipment and for proper disposition of surplus or unusable equipment. The agency applies research related to maintaining healthy, safe and productive work environments and is aggressive in efforts to provide space and working conditions conducive to the well-being and productivity of its workforce.

NOTE (to Workbook Users): Because telecommuting is optional, this item is neither scored nor reflected in the maximum function score. The indicators may be helpful, however. If telecommuting is permitted or is under development, its policies and procedures fully address productivity, confidentiality and security of records, safety, equipment needs, and technical support. Methods are in place to preserve essential program needs, such as: demonstrable diligence and stewardship; productivity measures; access to supervision, peer-collaboration and learning; ability to rotate cases; suitable and secure neutral quarters for meetings with providers; etc. Agency telecommuting policies and practices also avoid or control for the introduction of biases, such as favoring hiring selections of candidates with suitable home-space or non-selection of candidates who do not work well in relative isolation, etc.

II. POLICY MANAGEMENT SYSTEM, INCLUDING LAWS and REGULATIONS

The agency's leadership knows regulatory best-practices and consumer protection needs and makes diligent, consistent efforts, through information and education, to have these reflected in enabling statutes, regulations, internal operating policies/procedures, and coordination with relevant agencies and organizations.

a. Statutory Base

Statutory provisions establish a clear and complete basis for operating the program at the level of best practices while avoiding undue specificity that undermines the flexibility to respond to unanticipated events or consumer risks. The statutory provisions:

- i. Are clear as to authority, responsibility, and protective intent (including background clearance measures), and establish clear distinctions in types of licenses. For example, statutes provide clear language to define facilities subject to regulation, time-frames for licensure, including short-term licenses (e.g., about six months) for

new programs and programs experiencing significant compliance deficiencies that do not rise to the level of denial or revocation; clear distinctions for types of settings/consumers; etc. (Desirably, the Code would include in its time-frames section a sole-discretion provision for the agency to lengthen and/or shorten licensure periods by three to six months at limited intervals, such as three or four years, for purposes of re-balancing its workload. This reduces the disruptiveness of recurring peak-loads that develop when numerous facilities open near the same time, such as with the start of the school year or associated with the opening of other businesses that rapidly expand the need for human care.) The Code as a whole creates neither gaps nor conflicts/ambiguities among agencies with related services, regulatory authority, or funding programs.

- ii. Afford similar protections to populations in similar risk categories or settings and do not exempt from regulation on the basis of business type, sponsorship, or status with voluntary approval/accreditation organizations. Further, the statutes require disclosure of corporate ownership and structures as well as enforcement methods that address corporate-level performance deficiencies that affect multiple facility sites in the same organization
- iii. Include a basis for the agency to develop fee schedules for facility licensure, selected publications and training events and for fines/monetary penalties for significant non-compliance with regulations and specify that all such fees and fines accumulate in a special fund to be used for provider training and support services. (Statutes often set an upper limit on fines, however, while allowing the agency to develop risk-related steps within that limit.)
- iv. Establish a basis for provider support services, including required orientation for applicants, and a basis for required training associated with corrective action for licensees when the agency determines that the lack of such training is a causal factor in non-compliance. The latter requirement, which may or may not be provided by the regulatory agency; includes a basis for the licensee to bear the costs of remedial training.
- v. Establish time boundaries for response to applicants and minimum inspection frequency (which lay a general basis for staffing). Dispositions of completed applications occur within 60-90 days. Inspections occur *not less than* twice a year, with one or more being unannounced – or not less than once a year, unannounced, provided the agency employs a reliable performance-based system to reduce inspection frequency for facilities with an established record of strong compliance and ongoing evidence of management and operating stability. Statutory language and staffing provide for more frequent inspections when needed for consumer protection, which are administered systematically.
- vi. Include a basis for discretionary administrative variances and waivers and require a 2- or 3-step agency review rather than the usual administrative appeal rights.
- vii. Establish a broad discretionary array of effective and timely sanction options and strategies, including their due process provisions. Also included are mandatory waiting periods of 12-24 months to accept new applications from licensees or principals that have been the subject of forcible closure actions and major intermediate sanctions. Expedited appeal provisions apply to urgent protection situations. Streamlined appeal provisions apply to intermediate sanctions.

- viii. Are current, or sufficiently flexible, to enable the agency to deal effectively, both in enforcement and rule-making, with changes in the industries' or facilities' services and operating environments.
- ix. Include a basis for the promulgation of rules to establish best practices in both consumer disclosure and family involvement. The latter types of rules relate to methods to keep consumers/families informed of their rights and responsibilities and to promote family involvement in decisions and facility activities. They typically require disclosure of: relevant services and fees, including basic and added charges; admission and discharge criteria and procedures; facility practices to ensure staffing patterns and staff qualifications and suitability; and, internal practices to protect consumers from criminal, predatory, and abusive or high-risk behaviors whether by facility staffs or clientele.
- x. Establish sufficient flexibility in promulgation procedures for the agency to conform promptly to emergent changes in risk-knowledge and to changes in relevant state or federal law for the various population groups and facility types.
- xi. Establish provisions for promulgation of regulations that are designed to ensure public awareness and comment opportunities without unduly protracted or onerous processes for agencies. A provision for expedited promulgation under clearly defined exigent circumstances is available.

In support of maintaining a sound statutory base:

- xii. The agency, based on its research, knowledge and experience, keeps the host-agency leadership informed of service significant trends (both worthy and problematic) and statutory issues affecting consumer well-being and the effectiveness of the regulatory program as a whole. It recommends statutory changes and prepares proposed legislation or issue-studies as permitted, including required justification documents.
- xiii. The agency performs correct and thorough impact analyses on proposed legislation that would affect the agency, related agencies, or stakeholders and coordinates its analysis and development of a recommended position with all other departments and agencies affected by a bill. As requested, agency staffs prepare briefing material for the administration's use in responding or provide testimony, track bills throughout the legislative process, including revisions of analyses in response to amendments. At the conclusion of the legislative session, the agency revises work plans as necessary to revise regulations or operating procedures and to provide information to affected stakeholders.

b. Regulations

Both programmatic and procedural regulations and their associated policies and procedures are lawful and reflect current research, sound consumer protection practices, and fairness to all parties. They:

- i. Fully implement and pose no conflict with provisions of state statutes; pose no conflict with federal law; and implement federal law or regulations when authorized to do so.

- ii. Include a mix of specific and general requirements that are clearly written, conform to the regulatory style manual, and can be measured or judged with reasonable consistency.
- iii. Are based on current scientific research and on appropriate adjustment to worthy current trends and practices in industries' and relevant agencies' practices.
- iv. Include the rationale for each proposed rule, which is shared with public during the promulgation process, made available thereafter, and used for such activities as developing guidance documents, interpretation manuals, and training for staffs and providers.
- v. Provide sound preventive protection against risks to health and safety and are designed to promote the development and preservation of optimum functioning across all spheres and domains, including requirements for facility self-monitoring and quality improvement systems to promote sustained (systemic) compliance and appropriate care, including appropriately individualized care.
- vi. Allow, within the protective intent of law and regulations, reasonable flexibility for facilities to offer care in a variety of program designs, business models, and settings.
- vii. Are designed for appropriate coordination with relevant agencies' laws, regulations, services, and funding.
- viii. Have, for each set of regulations, an up-to-date interpretation manual or guidance document for staffs and providers to consult in applying regulations that are complex or that have raised questions in application, either generally or in particular situations or settings.

In support of the above practices, the agency's policy unit:

- ix. Maintains an effective program of research assimilation, inquiry, and applied research to inform both routine and ad hoc program decision-making.
- x. Uses structured cycles, processes and methods to develop effective regulations, e.g., research, assess, develop/revise regulations at regular intervals and to respond to emergent situations. A review of each regulation set is scheduled at least every 3-4 years, with revisions initiated if warranted. The agency issues interpretations and technical assistance/guidance documents for use by inspectors and licensees. Unit staffs maintain logs of issues and findings for each regulation-set, and logs are consulted when scheduled reviews and unscheduled revisions occur. The unit meets or exceeds legal requirements for public comment opportunities and is sensitive to the need for a variety of input options. The unit collaborates closely in the planning, development and delivery of training in agency policies, laws and regulations for regulatory staffs and, when appropriate, licensees and their staffs. As appropriate, unit staffs participate in briefings for promulgating authorities and in training or information exchange with related agencies and industry trade associations.
- xi. Manages public/stakeholder relations and outreach related to developing policy and regulations in a balanced, effective manner. Standing or ad hoc advisory committees comprising a cross-section of stakeholders are employed to consider significant revisions of regulations or policies.

III. ENFORCEMENT SYSTEM

The agency uses the full range of enforcement, from training and technical assistance to forcible closure sanctions, to fulfill its protection mission by applying laws and regulations fairly, firmly, and predictably.

- i. Develops, manages, or coordinates provider support services that help industries meet the needs for sustained compliance management and for professional growth among care-providers.
- ii. Develops and oversees an integrated system of enforcement performance standards, procedures and protocols to achieve correct, consistent enforcement, including methods to detect and address deviations and to confirm that performance reflects consistent, correct interpretation and enforcement. These procedures specify triggers for more frequent inspections or contacts, such as facilities with significant compliance issues, that are in or emerging from a sanction, that are undergoing changes in management or structure or other changes in the business environment that could logically portend adverse effects on consumer care
- iii. Establishes and monitors the implementation of agency guidance to ensure that each licensing office develops/applies consistent, fair and effective enforcement-workload management methods, case assignments, and special assignments, including training services for both regulatory personnel and applicants/licensees. Each unit provides regular case-rotation to ensure: “fresh eyes” for consistency, balanced with the need to maintain inspectors’ reasonable familiarity with their assigned facilities; to give inspectors the widest exposure to facility issues; and, to expose providers to the widest array of regulatory staffs’ knowledge and skills. The recommended rotation interval is approximately 2-4 years.
- iv. Conducts correct and thorough risk assessment/management and quality improvement methods and monitors compliance with agency standards and benchmarks for all agency offices.
- v. Establishes agency plans and guidance for all offices: to provide and organize appropriate technical assistance and other support services to providers; to provide group and individual access for licensees and applicants to express and resolve issues related to agency performance; and, to advocate for training or other provider services/supports available externally, including performing necessary/appropriate linkage arrangements with such resources.
- vi. Identifies staff development and support needed for regulatory personnel to perform the enforcement function effectively.
- vii. Investigates complaints about licensed facilities and reports of allegedly illegal operations thoroughly within a risk-inferred response protocol, varying from immediately to less than 10 days.
- viii. Provides inquirers with access, both by invitation and upon request, to timely information and orientation on compliance expectations to assist their decision-making on whether to apply for licensure.
- ix. Provides applicants with timely orientation and pre-licensure training that teach mutual responsibilities and expectations and that provide assistance in establishing

compliance systems for facilities; such orientation is required if authorized or strongly encouraged if not authorized in statutes and rules. Extra monitoring and technical assistance are provided to new licensees during the initial licensure period as part of the process of determining whether the licensee is suitable for a longer term license.

- x. Provides licensees with ongoing information and access to technical assistance and training to improve compliance and care-giving.
- xi. Requires, in addition to central office activities, that each enforcement office implement an agency-approved system to maintain a flow of information and communication between the office and its area licensees and facility-managers, usually in the form of 3-4 provider meetings annually that include dialogue, compliance assistance of general interest, information about related agencies' services, and updates on key agency activities of interest to licensees.
- xii. Ensures that all personnel diligently comply with their reporting requirements to other state and local protective services and law enforcement agencies and that they also enforce reporting requirements by licensed facilities.
- xiii. Ensures that inspections and application evaluations are prompt, objective, thorough, and include direct observations of and interviews with persons in care and, as feasible, family-members. Reports from involved regulatory or placement/subsidy agencies are reviewed as necessary to evaluate compliance with licensing rules. Where sampling is allowed to determine compliance, whether in reviewing consumer or staff records or in interviewing staffs and consumers, the agency uses statistically valid sample size and selection methods to ensure that the results are defensibly representative.
- xiv. Routine monitoring inspections occur with sufficient frequency to protect consumers and to prevent or reduce compliance deterioration – at least twice-yearly, unless the agency has a reliable system to reduce the frequency of routine monitoring for stable, high-compliance facilities, provided that all facilities are inspected at least once a year. Higher frequency inspections occur within agency guidance and are focused on consumer protection while resolving systemic issues within a timeline – or on prompt determination that consumer well-being demands enforcement escalation.
- xv. Ensures that licensing decisions and actions are timely, fair, objective, thorough, and recognizably consistent from person to person and from office to office.
- xvi. Ensures that inspection documentation is accurate, evidence-based, clear, complete, professional in style, and well-written in terms of structure and grammar. All reports are written so that they could be used in litigation if necessary.
- xvii. Establishes methods to ensure that case files and office records, both manual and automated, are current and in good order, and are properly secured according to agency policies. The agency uses standard file-organization methods in all offices.
- xviii. Requires that corrective action is cause-directed and systematically monitored against stated times and conditions to accomplish correction. When violations are numerous or otherwise indicate imminent or actual system break-down, a formal plan of correction is required that involves the facility's owner, upper management or board. Closure actions, including voluntary closures, are overseen and coordinated

with appropriate community resources as necessary to ensure consumer protection and to reduce relocation stress while their situation is unstable.

- xix. Monitors to ensure that sanctions are issued when compliance is not maintained and are selected according to a systematic risk-assessment model. Requests for settlement agreements are carefully evaluated against acceptance criteria and intensively reviewed at the highest management levels. According to standing protocols, enforcement staffs have the benefit of timely legal advice in decision-making and during implementation.
- xx. Establishes a system to track and evaluate waivers/variances and sanction cases for timely processing, appropriateness, and consistency and for post-issuance compliance with stipulations associated with variances and corrective actions.
- xxi. Maintains close monitoring and regular management review for high-risk cases, such as facilities on enforcement watch because of compliance deficits, forcible closure cases operating during appeals, and facilities operating on substandard licenses or on settlement agreements. Facilities being sold or closed are also kept under watch until the agency is satisfied that consumers are not at risk.
- xxii. Establishes guidelines for licensing offices to organize team inspections and investigations related to such variables as effectiveness (e.g., size of facility, span of inspector expertise needed for the population, complexity of a complaint, involvement of other agencies, etc.), the need for added witness or supervisor presence in highly contentious situations, and staff safety concerns (e.g., location of facility, lack of knowledge about a reported illegal facility, evening/night/weekend inspections, etc.)

IV. TRAINING AND STAFF DEVELOPMENT SYSTEM

The agency creates a culture of learning and strivings for excellence through learning and knowledge sharing for its staffs and for licensees.

NOTE (General Instructions for Workbook Users): Licensing agencies' knowledge management/staff development systems often deliver training and education through a combination of centralized and dispersed methods from internal and external sources. (For example, supervisors and qualified peers may train, coach and mentor newcomers or conduct performance assessment and debriefings on directed reading. Staff development may involve sessions provided by the host agency, university, or other external agencies) The assessment response must reliably reflect both the content and the quality of any dispersed training, including a consideration of the timeliness, thoroughness and consistency of content and trainer skills and methods. Specifically, unless clearly unrelated and inapplicable in context, outcome statements also apply: (1) to portions of the program that rely on dispersed training and trainers, and (2) to staffs that provide structured training services to providers, such as pre-licensure training.

a. Training services meet high standards of quality in adult education design and delivery

- i. Maintains an effective professional development system for agency staffs to ensure competency and continued professional growth, including incorporation of current research concerning effective design of adult education learning systems related to the acquisition, retention and use of knowledge.

- ii. Has formally organized the professional development system for accountability and clarity of its knowledge management responsibilities but also ensures that this function has continual interaction with other agency components and participates as a full partner in planning and problem-solving with them.
- iii. Uses an information system that provides information and tools for agency knowledge-management that support assessment, planning, development, and tracking at individual, unit, and agency levels. The system should readily support analysis for correlations between training activities and indicators of unit and individual performance outcomes.
- iv. Ensures that anyone providing training services has suitable knowledge and skills in adult education principles and methods as well as subject matter. This includes, when relevant, course and curriculum design/development and applies to roles in staff development and provider support training. Close supervision, coaching and additional preparation are available until new trainers are secure and fully meet standards for trainers. All personnel providing adult education have the benefit of ongoing assessment and access to formal and informal means of developing their knowledge and skills.
- v. Conforms to principles and current best practices in the design and delivery of adult education.
- vi. Competently and appropriately uses the full range of types and delivery methods associated with creating a learning organization and with providing suitable variety to accommodate the diversity in learners' existing knowledge and needs, individual learning styles and work situations. This includes ensuring that training services use and appropriately apply a rich mix of types and delivery methods, e.g., platform delivery, synchronous and asynchronous distance learning, directed studies, self-paced learning, peer and supervisory mentoring and coaching, formal and informal venues, etc.
- vii. Develops training that is well-paced, engaging, and includes opportunities for reflection, connection and integration with related concepts and bodies of knowledge, and interactive, hands-on or simulated practice.
- viii. Ensures that development and delivery strategies are well selected for learning goals while demonstrating respect for both efficiency and effectiveness. Simple content is handled efficiently, such as by directed reading followed by testing, discussion, etc. Complex subjects are given ample time and are approached from multiple dimensions and with phased/follow-up training as necessary, including access to a trainer or coach to hone understanding and application techniques across different situations. Teaching strategies are especially sensitive to the need to address learner issues related to "unlearning and replacing" concepts and practices, which are typically more complex than issues confined to adding or expanding existing concepts and practices.
- ix. Answers questions that arise during training during or very soon after the training. To the extent possible, trainees have opportunities to apply newly learned material within two weeks of training to promote content retention.
- x. When appropriate, plans follow-up assessments and refresher training for critical and complex tasks, including remedial training identified as needed through performance measures.

- xi. The orientation and basic training program takes into account that new regulators come with very different education and experience by allowing individualized approaches in the instruction (not the competencies or measures), such as adding or condensing content according to learner needs.

b. Staff development and provider training programs are well-planned, monitored and evaluated, respond to identified needs, both existing and emergent, and are integrated into all agency and unit operating plans.

- i. Plans, oversees, tracks, and adjusts as necessary for effectiveness all training programs, including dispersed training and both structured provider training and less formal teaching associated with providing technical assistance.
- ii. Develops training plans with managers and supervisors as an integral component of the agency's operating plan and includes methods for regular monitoring. The training officer develops methods to receive regular feedback from trainees and is available to plan or assist in planning individualized training for special needs of staffs and the organization.
- iii. Addresses at least the following program aspects in the agency's professional development plan and program at group and individual levels according to roles and responsibilities, including staff development preparation for those who also serve as staff or provider trainers: new staff orientation and basic training; early and ongoing training and education in regulatory principles and methods; knowledge to support strategic/operating plans and other change-preparation training needs of the organization; knowledge to address needs identified through the agency's monitoring and continuous improvement process; ongoing training and staff development in pursuit of NARA or other job-related credentials/approvals as well as topical and population-specific issues. The ongoing staff development component is designed to support succession planning, career advancement opportunities, and in-grade professional growth.

NOTE: While portions of ongoing staff development may be developed in-house, one essential purpose of professional training and education is to acquire a less insular comprehension of the profession and issues affecting the profession from multiple national/external perspectives and complex human care issues that are grounded in inter-/multi-disciplinary academic research. This requires learning opportunities through broader contact with colleagues and methods external to the agency. In addition to training/education resources listed on the NARA website (www.naralicensing.org), NARA will soon post an extensive list of topics associated with its expanded professional development project.

- iv. Plans the staff development services to assure that training is available timely and that supervisors can more easily avoid allowing staffs to assume job responsibilities that they are unprepared to perform well. If distance, schedules, low turnover, or other conditions interfere with traditional training delivery methods, the training program adjusts to maintain timeliness without sacrificing the quality of the learning experience for staffs, e.g., by training supervisors or peer instructors to use scripted curricula or recordings of previous sessions or by using computer-assisted or distance learning approaches.
- v. Establishes criteria and communication channels to determine which training subjects need refresher training and with what frequency for both new and veteran staffs. Note: Refresher training must be well planned but need not be confined to traditional instruction, e.g., selected case presentations with peer/supervisor review and discussions can be scheduled as part of unit staff meetings, offering opportunities to learn – and to learn by teaching in peer-mode.

- vi. Provides timely, well-planned, and sufficient training for changes in program, e.g., revised regulations, new legislation, revised operating procedures, reorganized functions, etc. The design and follow-up for change-management training take into proper account that staffs must unlearn, relearn, and reintegrate altered perceptions and requirements and must then fit these effectively into existing caseloads, relationships, and case-actions.
- vii. Provides, through the training officer, information to staffs and supervisors about staff development matters, including resources available or potentially available within and beyond the agency for credit and non-credit courses.
- viii. Develops programs and services that appropriately respond to and support the agency if it serves as the lead agency for large scale, formalized provider training and education systems aimed primarily at workforce development for the regulated industries.

NOTE (to Workbook Users): This item is neither rated nor reflected in the maximum score for this function since jurisdictions vary in whether the licensing service has lead responsibility for this vital aspect of consumer protection. At minimum, however, the licensing agency, including its staff development unit, should play advisory, linking, coordinating, and advocacy roles because of its extensive knowledge of the issues and because workforce effectiveness affects, and is inextricably linked to, the licensing mission. NARA believes that the licensing agency is a good fit for larger scale provider development services and encourages agencies to consider assuming that responsibility either directly or through extremely close collaboration if another entity has been assigned this responsibility. In any event, the licensing agency must assume primary responsibility for formal and informal provider training that is aimed primarily at regulatory compliance.

V. CONTACT INFORMATION

Pauline Koch
Executive Director
National Association for Regulatory Administration
910 Glen Falls Court
Newark, DE 19711
(302) 234-4152
pauline@naralicensing.org

Jodie Markey
Executive Administrator
National Association for Regulatory Administration
403 Marquis Avenue, Suite 200
Lexington, KY 40502
(859) 514-1921
jodiemarkey@naralicensing.org