Office of Licensing

Internal Memo

To: Office of Licensing Staff

From: Jae Benz, OL Director

cc: OL Managers

Date: January 3rd, 2020; Revised 4/23/20; Revised 9/17/20; Revised for Connect 2022; Revised 2/13/2023 CAP Issue Letter Email (pg8); Revised April 2023 (Clarification in Violations pg. 2-4)

Re: Health & Safety CAP Process for Connect

Overview: The purpose of this internal memo is to notify licensing specialists/investigators that the Office of Licensing management team is currently reviewing several protocols/processes and making revisions where needed. Several of these revisions or clarifications are required as part of continued monitoring to comply with the settlement agreement and is considered best practice. One of those revisions includes addressing the Health & Safety CAP process for Connect.

The following topics are outlined in this guide:

- Health & Safety CAP Process
- Examples of Violations requiring issuing a Health & Safety licensing report
- Process Guide(s) Used to Create a licensing report in CONNECT and where to flag a citation for Health & Safety
- Suggested language to use to cite
- CAP Issue Letter Email Revision
- Process Guide(s) Used to Create the H&S Re-Inspection
- Process Guide(s) Used to Create Investigation Inspection Re-Inspection
- Running the Health & Safety CAP Report

Health & Safety Citation Process:

Regulations can be flagged as a "Health & Safety LICENSING REPORT" in Connect (see screenshot on page 4). This type of LICENSING REPORT can be issued for a **regular inspection and/or for an investigation inspection.** Below are possible examples of violations (this is not an exhaustive list), which may constitute labeling a LICENSING REPORT as a "Health & Safety LICENSING REPORT":

1. **Violations that involved level II incidents such as decubitus ulcers, bowel obstruction, aspiration pneumonia and choking incidents that involve physical intervention.**
    a. **Aspiration pneumonia** is a lung infection that develops after you **aspirate** (inhale) food, liquid, or vomit into your lungs. You can also **aspirate** food or liquid from your stomach that backs up into your esophagus. It is important that providers and staff understand how vitally important it is to follow nutritional protocols, utilize

prescribed adaptive equipment, and follow prescribed diets to help minimize aspiration risk. Decisions to **not** classify a CAP as health and safety that involve violations related to decubitus ulcers, bowel obstruction, aspiration pneumonia and choking incidents MUST be made in consultation with your manager and Associate Director.

2. **Violations of Human Rights Regulations regarding abuse and neglect**
    a. **Per Settlement Agreement Provision Indicator V.C.6.3:**
    V.C.3. #3 states "For serious injuries and deaths that result from substantiated abuse, neglect, or health and safety violations, the OL **verifies that corrective action plans have been implemented within 45 days of their start date**." (this is 30 business day for the OL)
        1. **Please note:** In cases of substantiated abuse or neglect that do not involve serious injury or death, it is the responsibility of the Office of Human Rights to verify that corrective action plans have been implemented within 90 days of their start date.

3. **Violations of a provider not reporting abuse, neglect, serious injuries, and/or deaths.**
    a. Providers that fail to report serious incidents, deaths, or allegations of abuse or neglect as required by the Licensing Regulations receive citations from the IMU and are required to develop and implement DBHDS-approved corrective action plans.
    b. Providers that have recurring deficiencies in the timely implementation of DBHDS-approved corrective action plans related to the reporting of serious incidents, deaths, or allegations of abuse or neglect may be subject to further action **including receiving a health and safety LICENSING REPORT from the IMU,** or other actions as appropriate under the Licensing Regulations and approved by the DBHDS Commissioner.

4. **Violations regarding the physical plant posing serious safety concerns to the individuals being served. Examples below:**
    a. Regulations 280 A thru K; for example, if a location is infested with mold which poses a serious health concern.
    b. Violations of physical plant that result in serious injury. For example, regulation 280A if furniture is broken resulting in serious injury to the individual. Another example is regulation 280C, if an air conditioning unit upstairs was not properly attached and posed a risk of falling on an individual. This would be considered as not well maintained.
    c. Consultation with manager should occur.

5. **Violations regarding employees or those working directly with the individuals not having appropriate background checks.**
    a. If **several** employees are found with no background checks vs just one employee.
    b. Consultation with manager should occur.

6. **Violations regarding employees or those working directly with the individuals not being appropriately trained to meet the individual's needs.**
    a. **Several** staff not found with appropriate training such as CPR/First Aid, behavioral training, DSP competency training.
    b. Consultation with manager should occur.

7. **Violations regarding inappropriate staffing or staffing ratios.**
    a. Based on regulation 590, staffing ratios are based on the clinical and medical needs of the individuals and should be outlined in their service descriptions. For example, if a group home has 6 individuals, 4 whom utilize wheelchairs, and 2 whom have high behavioral needs, then a ratio of 1 staff for 6 individuals would not be appropriate based on the needs of the individuals in the home.

8. **Violations regarding medication administration resulting in a serious incident and/or involving several individuals not receiving their prescribed medications, for multiple days.**

9. **Violations related to not responding appropriately to crisis or emergency situations involving the individuals, resulting in serious incidents/deaths.**

10. **Violations related to the inappropriate use of behavior interventions resulting in serious incident.**
    a. This may be a potential Human Rights violation regarding current behavioral training for employees and potential abuse/neglect.

11. **Violations regarding provider's repeated failure to assess/implement risk management.**
    a. Reg 520, provider has past citations regarding not completing required risk assessments, investigations, and root cause analysis and/or failure to implement the risk management plan. For example, if a provider has had recent increase in falls occurring in the group home, they indicated in their root cause analysis that there was identified environmental risks regarding rugs not being secured in the home and adaptive equipment not working properly (walker broken). Another incident occurs in the home with an individual falling, and when onsite visit is conducted, specialist/investigator finds that a rug is not secured in the home and that the individual walker was again not working properly contributing to the fall. Upon review, the RM plan had not been updated to reflect risks the provider should be monitoring or steps to reduce risks.
    b. Consultation with manager should occur.

REQUIRED 30 BUSINESS DAY FOLLOW UP VISIT PROCESS:

If OL deems a LICENSING REPORT constitutes being classified as a health and safety LICENSING REPORT, then the regulation **MUST BE** checked as such in Connect and the LS/Investigator is required to complete a follow up within 30 business days to the provider **after the CAP is fully accepted**.

Licensing Specialist/Investigator in conjunction with the manager, may decide that a follow up is required earlier than 30 business days based on the number and type of violations. The purpose of the follow up is to ensure that the provider has successfully implemented the CAP that was issued during the inspection/investigation process.

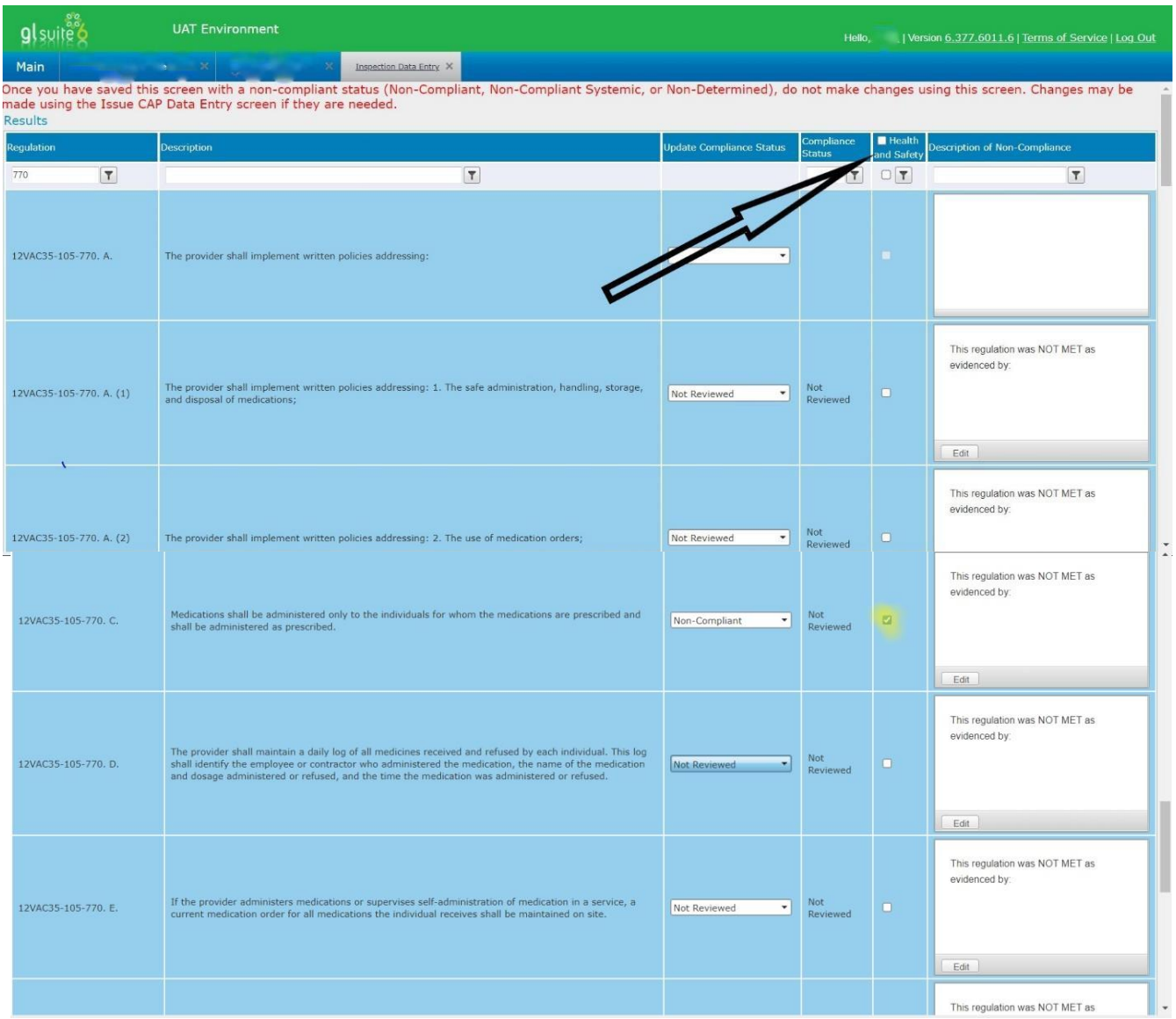
Proof of implementation must be collected based on the provider's corrective action plan response. Examples may include but not limited to; proof of training, updated policies or procedures, developed forms for quality assurances processes, updated documentation from individual records, etc.

Licensing specialists/investigators will determine in consultation with their manager if ongoing monitoring procedures are needed after the 1st 30 day follow up. The primary licensing specialist/investigator will consult with their manager regarding if the regulation should be labeled as Health and Safety and if consideration for a change in license status or immediate negative action should be considered.

If a 3rd H&S LICENSING REPORT is issued on an inspection or investigation, discussion should occur with your manager and associate director regarding consideration for enhancement monitoring and/or potential referral for negative action and continued follow up would cease for that specific inspection or investigation.

Step 1 - Using CONNECT to Issue a Health & Safety CAP

Initiating a Corrective Action Plan in CONNECT requires using the **Inspection Process Guide (Regular Inspection)** or the **Investigation Inspection Process Guide (Investigation Inspection).** Follow the steps to create and complete the inspection and the steps to create a Corrective Action Plan. From the Inspection Data Entry Screen, you will be able to check that the citation is a Health & Safety citation.



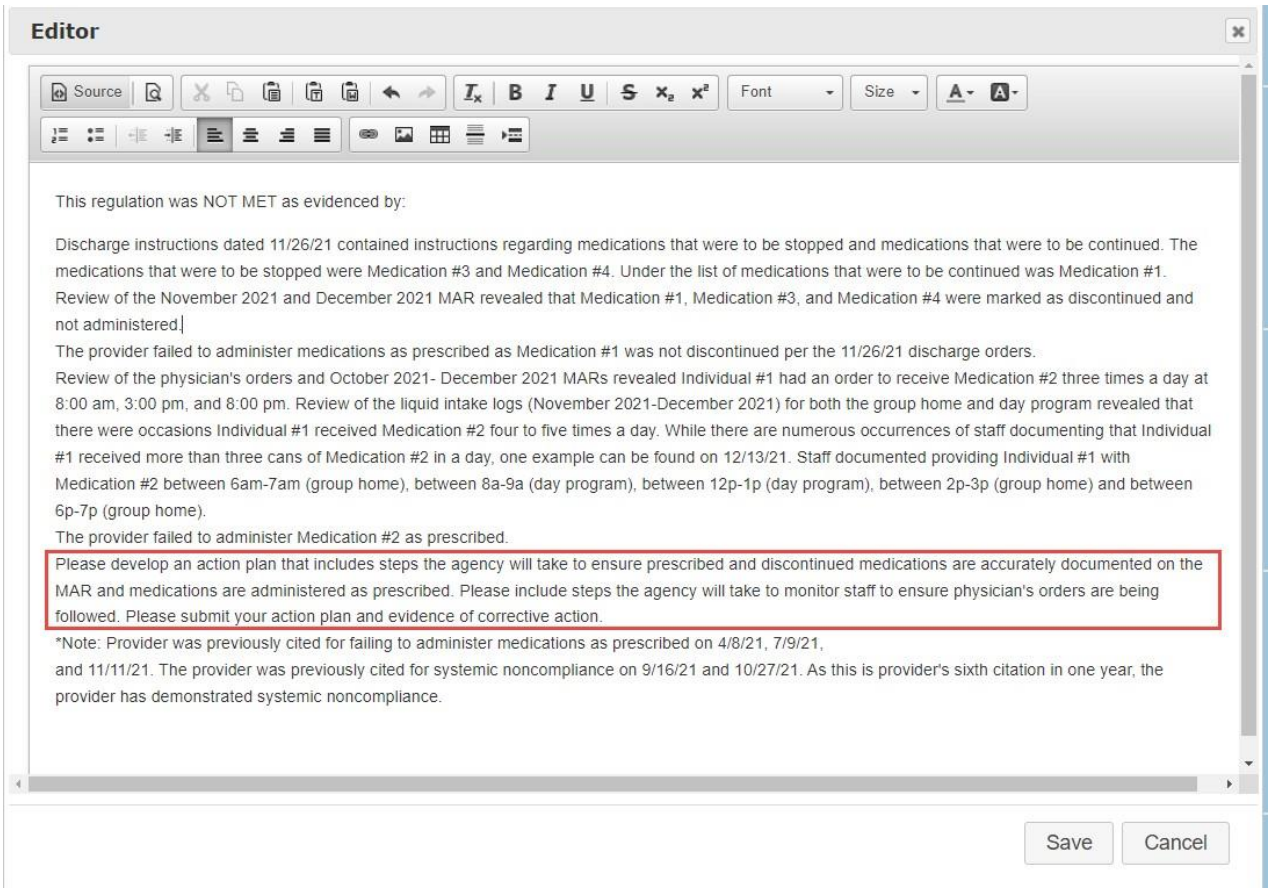
Writing the LICENSING REPORT: Specialists/Investigators must ensure that the LICENSING REPORT is written in a format in which the LS/Investigator requests documentation of proof of needed items to help demonstrate the provider's implementation of pledged actions. (See examples below).

12VAC35-105-770. C. - Medications shall be administered only to the individuals for whom the medications are prescribed and shall be administered as prescribed.	NS	[redacted] This regulation was NOT MET as evidenced by: Discharge instructions dated 11/26/21 contained instructions regarding medications that were to be stopped and medications that were to be continued. The medications that were to be stopped were Medication #3 and Medication #4. Under the list of medications that were to be continued was Medication #1. Review of the November 2021 and December 2021 MAR revealed that Medication #1, Medication #3, and Medication #4 were marked as discontinued and not administered. The provider failed to administer medications as prescribed as Medication #1 was not discontinued per the 11/26/21 discharge orders. Review of the physician's orders and October 2021-December 2021 MARs revealed Individual #1 had an order to receive Medication #2 three times a day at 8:00 am, 3:00 pm, and 8:00 pm. Review of the liquid intake logs (November 2021-December 2021) for both the group home and day program revealed that there were occasions Individual #1 received Medication #2 four to five times a day. While there are numerous occurrences of staff documenting that Individual #1 received more than three cans of Medication #2 in a day, one example can be found on 12/13/21. Staff documented providing Individual #1 with Medication #2 between 6am-7am (group home), between 8a-9a (day program), between 12p-1p (day program), between 2p-3p (group home) and between 6p-7p (group home). The provider failed to administer Medication #2 as
		Please develop an action plan that includes steps the agency will take to ensure prescribed and discontinued medications are accurately documented on the MAR and medications are administered as prescribed. Please include steps the agency will take to monitor staff to ensure physician's orders are being followed. Please submit your action plan and evidence of corrective action. *Note: Provider was previously cited for failing to administer medications as prescribed on 4/8/21, 7/9/21, and 11/11/21. The provider was previously cited for systemic noncompliance on 9/16/21 and 10/27/21. As this is provider's sixth citation in one year, the provider has demonstrated systemic noncompliance.

The LS/Investigator should ensure that they electronically save the documentation evidence submitted by providers and send to their regional manager. Regional managers are responsible for uploading support docs into OL Regional Manager Team.

A folder should be created with Provider Org# and Name>subfolder with Service & Program>subfolder with date of inspection>place CAP and supporting documentation submitted in folder.

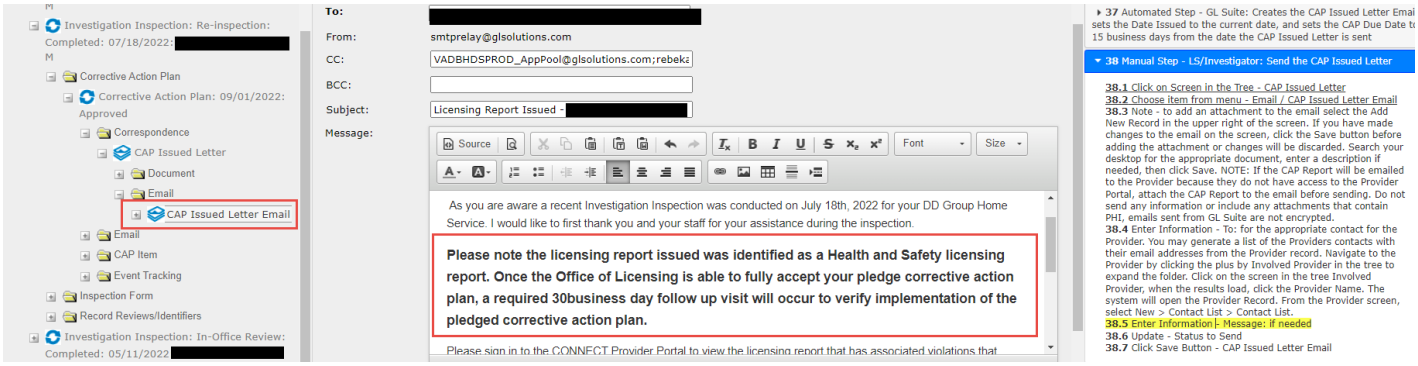
This is important in case MRC or DOJ reviewer requests and/or if the provider goes into negative action, proof of what they indicated they would do is available for evidence. In CONNECT system documents can also be saved directly with the inspection or investigation.


Editor
Source
Font
Size
This regulation was NOT MET as evidenced by:
Discharge instructions dated 11/26/21 contained instructions regarding medications that were to be stopped and medications that were to be continued. The medications that were to be stopped were Medication #3 and Medication #4. Under the list of medications that were to be continued was Medication #1. Review of the November 2021 and December 2021 MAR revealed that Medication #1, Medication #3, and Medication #4 were marked as discontinued and not administered.
The provider failed to administer medications as prescribed as Medication #1 was not discontinued per the 11/26/21 discharge orders.
Review of the physician's orders and October 2021- December 2021 MARs revealed Individual #1 had an order to receive Medication #2 three times a day at 8:00 am, 3:00 pm, and 8:00 pm. Review of the liquid intake logs (November 2021-December 2021) for both the group home and day program revealed that there were occasions Individual #1 received Medication #2 four to five times a day. While there are numerous occurrences of staff documenting that Individual #1 received more than three cans of Medication #2 in a day, one example can be found on 12/13/21. Staff documented providing Individual #1 with Medication #2 between 6am-7am (group home), between 8a-9a (day program), between 12p-1p (day program), between 2p-3p (group home) and between 6p-7p (group home).
The provider failed to administer Medication #2 as prescribed.
Please develop an action plan that includes steps the agency will take to ensure prescribed and discontinued medications are accurately documented on the MAR and medications are administered as prescribed. Please include steps the agency will take to monitor staff to ensure physician's orders are being followed. Please submit your action plan and evidence of corrective action.
*Note: Provider was previously cited for failing to administer medications as prescribed on 4/8/21, 7/9/21,
and 11/11/21. The provider was previously cited for systemic noncompliance on 9/16/21 and 10/27/21. As this is provider's sixth citation in one year, the provider has demonstrated systemic noncompliance.
Save
Cancel

CAP Issue Letter Email

In CONNECT, when issuing a provider, a licensing report, the process guides will have a step to **Send the CAP Issue Letter Email**. This step allows a LS/Investigator to make edits to the message if needed. Currently, other than debriefing individually with a provider about a licensing report being deemed health and safety, providers are not able to see if a citation is deemed health and safety via the provider portal. Therefore, to assist providers tracking of any licensing reports, where one or more citation is keyed to a health and safety citation, all staff should do the following steps for the **CAP Issue Letter Email**:

1. Add the following statement to the message section of the CAP Issue Letter Email before updating the status to Send:
    a. *Please note the licensing report issued was identified as a Health and Safety licensing report. Once the Office of Licensing is able to fully accept your pledge corrective action plan, a required 30business day follow up visit will occur to verify implementation of the pledged corrective action plan.*



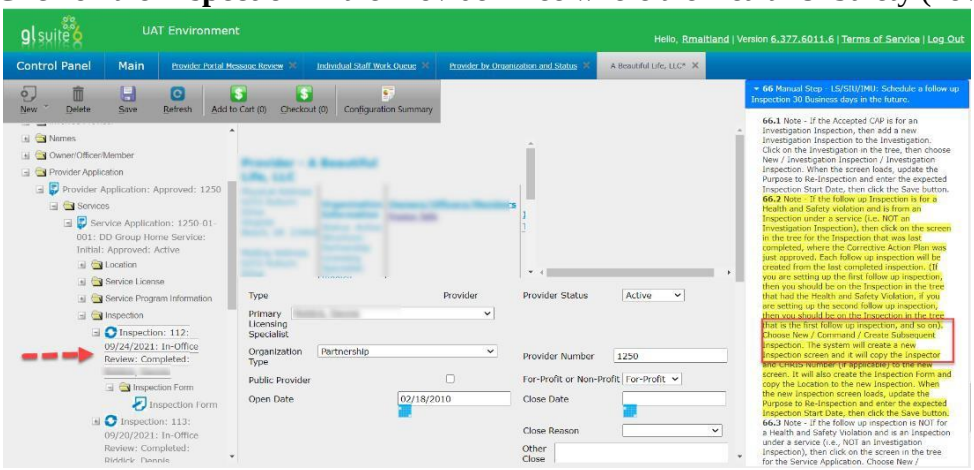
Note: The next step requires that you have completed the LICENSING REPORT process with the provider and the **CAP issued is Approved.**

Step 2 – Scheduling the Re-Inspection Follow-up for a Health & Safety CAP (Regular Inspection)

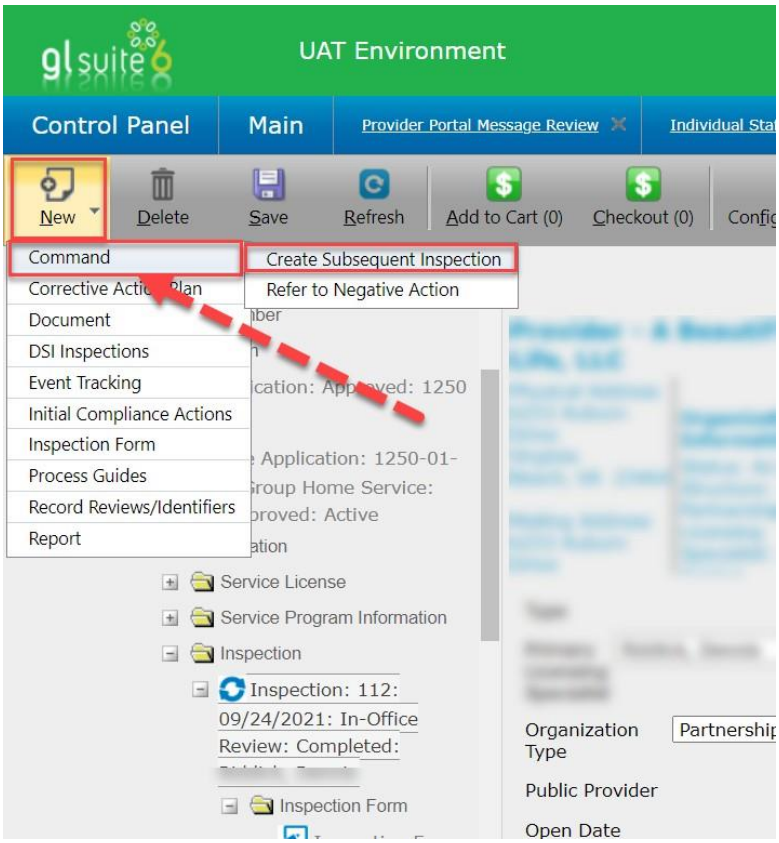
Once the Corrective Action Plan with the Health & Safety is approved, you should schedule a follow-up Inspection 30 days in the future. Note: 30 business days should be the maximum follow-up.

In CONNECT, from the Provider/Service and Inspection record that was a Health & Safety CAP (now approved), open the Website-Corrective Action Plan Process Guide and navigate to step 66. Read step 66.2 for Regular Inspection

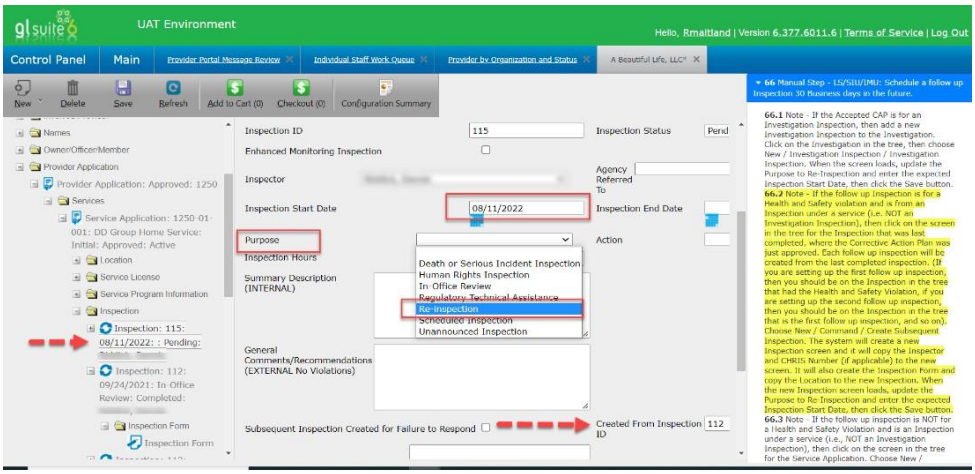
Click on the **Inspection** in the Provider Tree where the Health & Safety (now Approved CAP) lives in the tree.



Choose from Menu: New/Command/Create Subsequent Inspection.



A new Inspection (pending) is created copying the Inspector Name into the new Inspection.
Enter the following information: Inspection Start Date (Scheduled Date), Purpose: Re-Inspection. Note: CONNECT ties the follow-up inspection to the original Health & Safety Inspection by associating the Health & Safety Inspection ID Code field.



Be sure to save the Inspection. Step 67 describes what CONNECT will do when it comes time to do your follow-up inspection.

67 Automated Step - The system will display the Re-Inspection in your Individual Staff Work Queue 2 weeks prior to the Inspection Start Date.

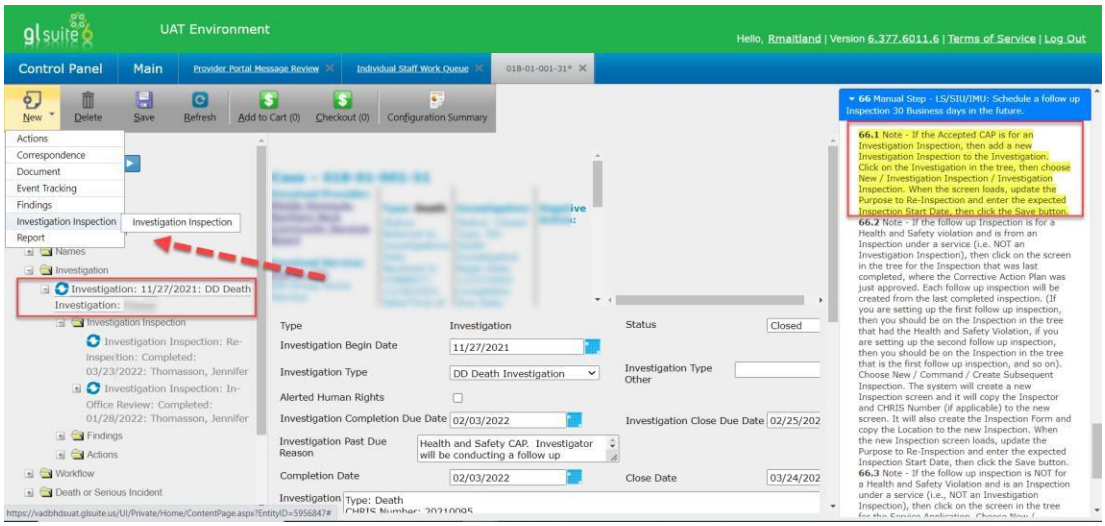
If for any reason there is required a 2nd follow-up inspection due to an additional citation during the follow-up related to the Health & Safety LICENSING REPORT, please follow the same steps to initiate a 2nd follow-up inspection.

Step 2 – Scheduling the Re-Inspection Follow-up for a Health & Safety CAP (Investigation Inspection)

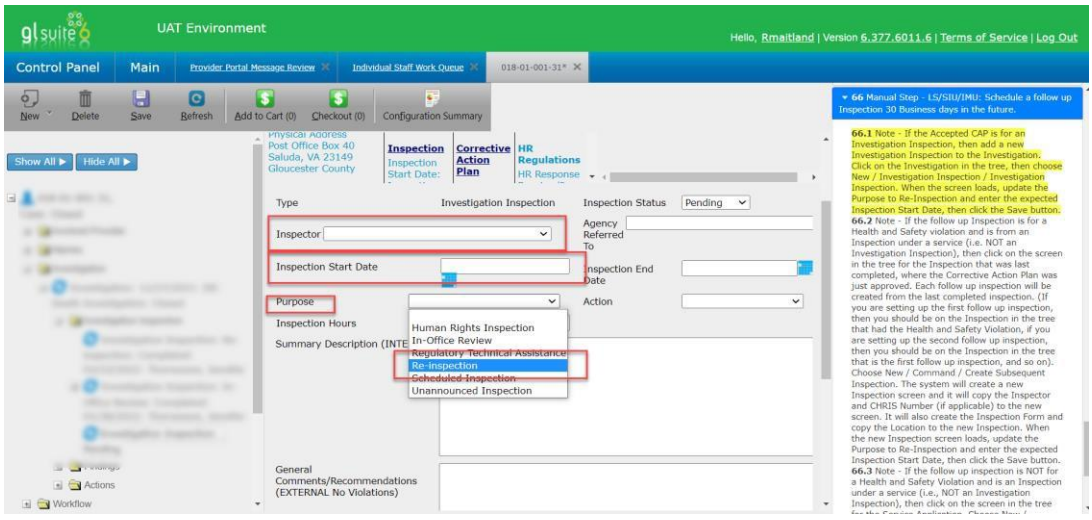
Once the Corrective Action Plan with the Health & Safety Investigation Inspection is approved, you should schedule a follow-up Investigation Inspection 30 days in the future. Note: 30 business days should be the maximum follow-up.

In CONNECT, from the Investigation folder where the Health & Safety CAP (now approved), open the Website-Corrective Action Plan Process Guide and navigate to step 66. Read step 66.1 for Investigation Inspection

Click on the **Investigation** in the Case Folder where the Health & Safety (now Approved CAP) lives in the tree. Choose Investigation Inspection, Investigation Inspection.



A new Investigation Inspection (pending) is created. Enter the Inspector Name, Inspection Start Date (Scheduled Date), Purpose: Re-Inspection. Note: CONNECT will associate the follow-up inspection to the original Health & Safety Inspection by associating the inspections in the investigation folder.



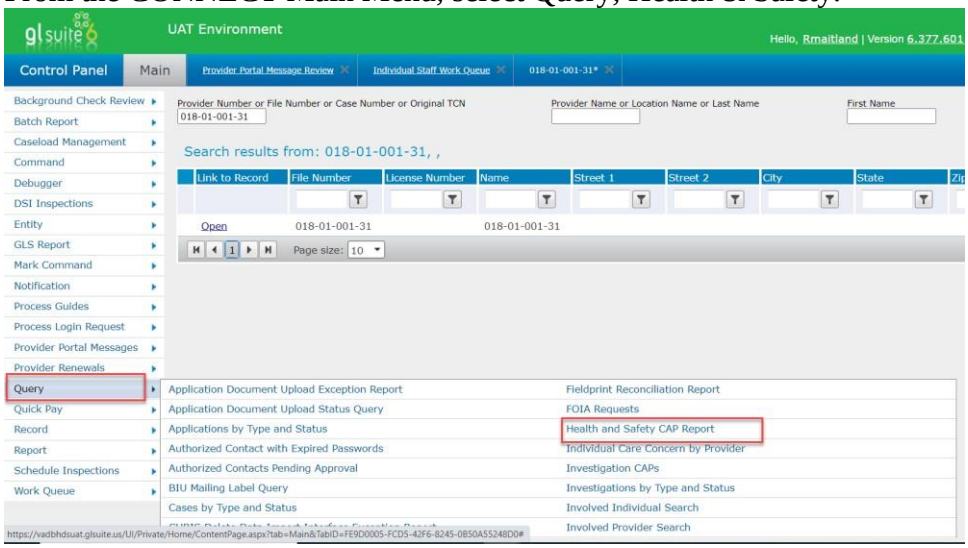
Be sure to save the Inspection. Step 67 describes what CONNECT will do when it comes time to do your follow-up inspection.

67 Automated Step - The system will display the Re-Inspection in your Individual Staff Work Queue 2 weeks prior to the Inspection Start Date.

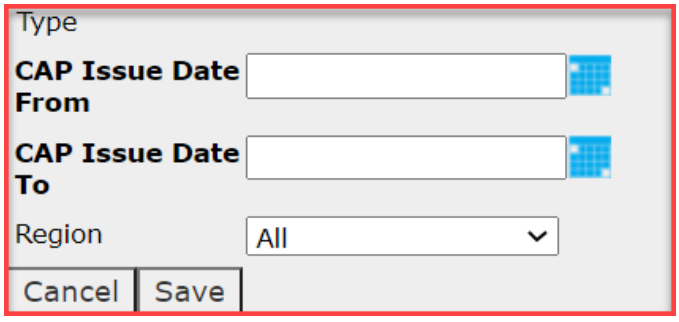
Step 3 – Running the Health & Safety CAP Query

Find the Query for Health & Safety Caps useful for identifying Health & Safety CAPS and monitoring that follow-up Inspections are completed.

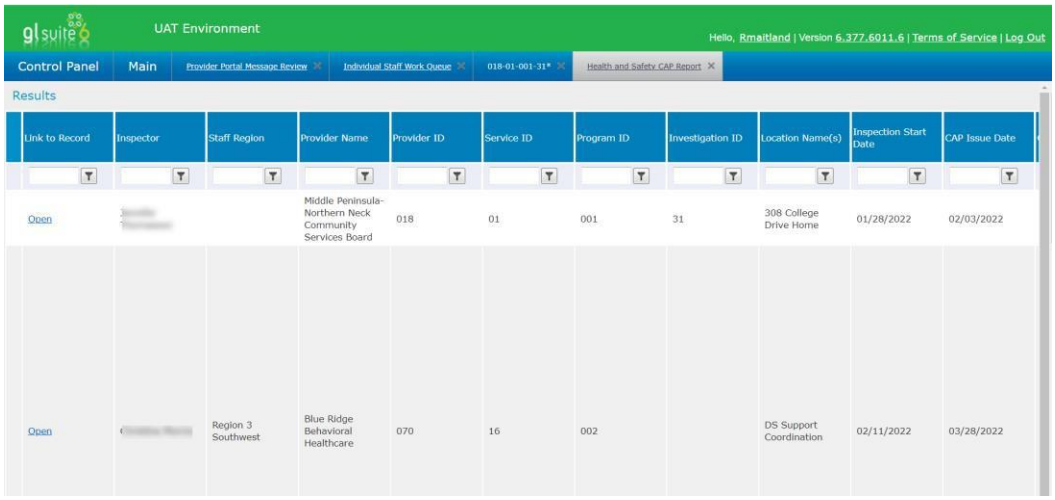
From the CONNECT Main Menu, select Query, Health & Safety.



Use the parameter criteria to define the query period



The Query will retrieve your results. View online or download your results.



Health & Safety CAP Tracking Spreadsheet: If a Health & Safety CAP is issued, the LS/Investigator would notify their manager who would then be responsible to update the OL Health & Safety CAP Tracking spreadsheet located in Regional Managers TEAMs>Special Assignments>Health & Safety, Documentation, Spreadsheet. Complete all applicable sections of the spreadsheet to track the status of the Health & Safety CAP. Below is screenshot from TEAMS where Regional Managers upload required information.

Note: *This requirement in the future may be discontinued once a determination can be made as to if Connect system is able to consistently support the H&S process.*