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); Revised May 2025 (Onsite Requirements pg. 2-4); Revised Oct 2025; Revised June 2026

Re: Health & Safety CAP Process

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 Permanent Injunction and are also considered best practice. One of those revisions includes addressing the Health & Safety CAP process.

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 licensing report 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 environment pose serious safety concerns to the individuals being served. Examples below:**
    a. Regulations 280 A thru J; for example, if a location is infested with mold which poses a serious health concern.
    b. Violations of physical environment 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 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.

c. *Note, if this is the only H&S violation noted, verification can be made via provider submitting verification of scheduled field print appointments with their 1st CAP response. Then, within the 30-day timeframe the provider must submit evidence of background check results, and an onsite visit will not be required.

6. **Violations regarding employees or those working directly with individuals not being appropriately trained to meet the individual's needs.**
    a. **Several** staff without appropriate training such as CPR/First Aid, behavioral training, DSP competency training.
    b. Consultation with manager should occur.
    c. The provider needs to submit evidence of the completed training(s) with their CAP. Evidence of this may include a training certificate, training log, sign-in sheet, etc. Both the employee and supervisor need to sign off on the training and include the date of the training. If the provider does not submit evidence of the training, because staff did not receive the required training by the time the CAP was due, then the provider must submit documentation to show when the employee is scheduled to complete the retraining and the form that will be used to document the training with their CAP along with any audit forms AND The provider must submit their training policy with their CAP that includes the effective date of their policy.

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 the provider's service description. For example, if a group home has 6 individuals, 4 of whom are non-ambulatory and utilize a wheelchair, and 2 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.

CAP Extension Requests for Health & Safety Violations

If a CAP extension request is submitted from a provider for a licensing report containing health and safety violations, that extension MUST NOT be granted. OL staff MUST include this statement below in the recommendations section of every licensing report that is classified as health and safety.

This Licensing Report includes Health and Safety Citations. Based on regulation 12VAC35-105-170.D: "An immediate corrective action plan shall be required if the department determines that the violations pose a danger to individuals receiving the service." An extension will not be approved for the CAP response for this Licensing Report.

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 onsite inspection within 30 business days to the provider **after the CAP is fully accepted**.

Note: The following are the only two exceptions that are applicable if the ONLY H&S violations involve required training or background checks. If the licensing report includes other H&S violations, other than required training or background checks, then an onsite inspection is required. Consultation with your manager should always occur.

1. **Required Training**: If the health and safety violations involved required training, the provider needs to submit evidence of the completed training(s) with their CAP. Evidence of this may include a training certificate, training log, sign-in sheet, etc. If the provider does not submit evidence of the training, because staff did not receive the required training by the time the CAP was due, then the provider must submit documentation to show when the employee is scheduled to complete the retraining and the form that will be used to document the training with their CAP along with any audit forms AND The provider must submit their training policy with their CAP that includes the effective date of their policy.

2. **Background Checks:** If the health and safety violations involved background checks, the provider must submit with their 1st CAP that at a minimum they have scheduled field print appointments for the identified staff. Then within the 30day timeframe the provider must submit evidence of background check results. If the provider fails to submit the background check results, then an onsite visit will be required for follow up.

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.

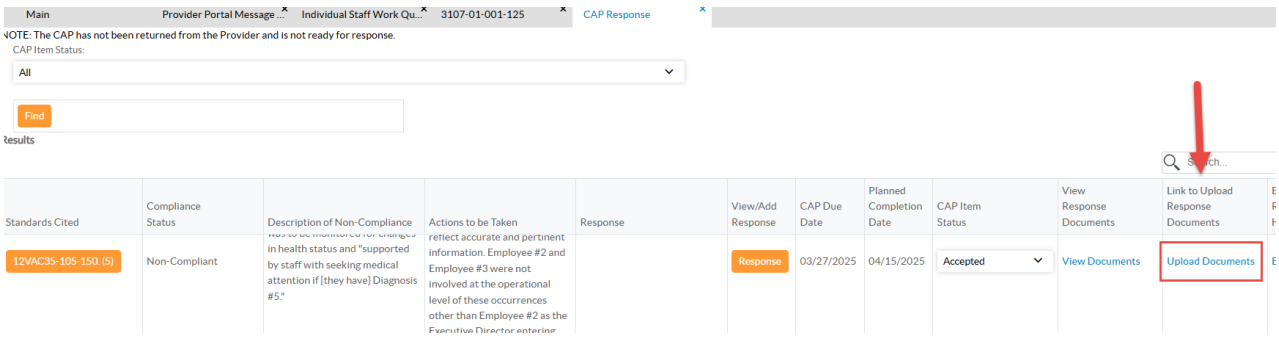
Proof of implementation must be collected based on the provider's corrective action plan response. Examples may include but not limited to; proof of training, updated policies or procedures, developed forms for quality assurances processes, updated documentation from individual records, etc.

If the provider does not include evidence of their CAP implementation with their CAP response, then the LS/Investigator must obtain additional evidence when completing their re-inspection, they should indicate in their inspection/investigation summary screen, where supporting documents have been uploaded into CONNECT.

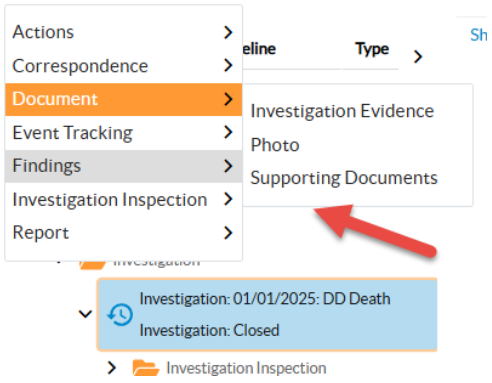
Uploading Supporting Documentation: There are two areas in which documents can be uploaded.

1) In the provider's **CAP Response Data Entry** screen; **or**
2) In the **Supporting Document Folder** under the inspection in the tree.

1) **CAP Response Data Entry screen:** The provider may upload supporting documentation as part of their CAP response directly into CONNECT. In addition, if staff secure supporting documentation while on-site during their follow-up re-inspection, staff can attach that supporting documentation to the CAP response by:
   a. Select the Corrective Action plan in the tree
   b. Go to Add-Cap Data Entry-CAP Response Data Entry
   c. Once the screen populates, you will see column for Link to Upload Response Documents.
   d. Click on that link, and upload supporting documentation you secured while onsite.



2) **Supporting Documents Folder:** LS/Investigator may upload any supporting documentation they obtained from their re-inspection by:
   a. Select the Inspection or Investigation in the tree.
   b. Go to Add>Documents>Supporting Documents
   c. Upload supporting documents in the folder that populates in the tree.
   d. Label the file **Re-Inspection Follow Up Documentation**.



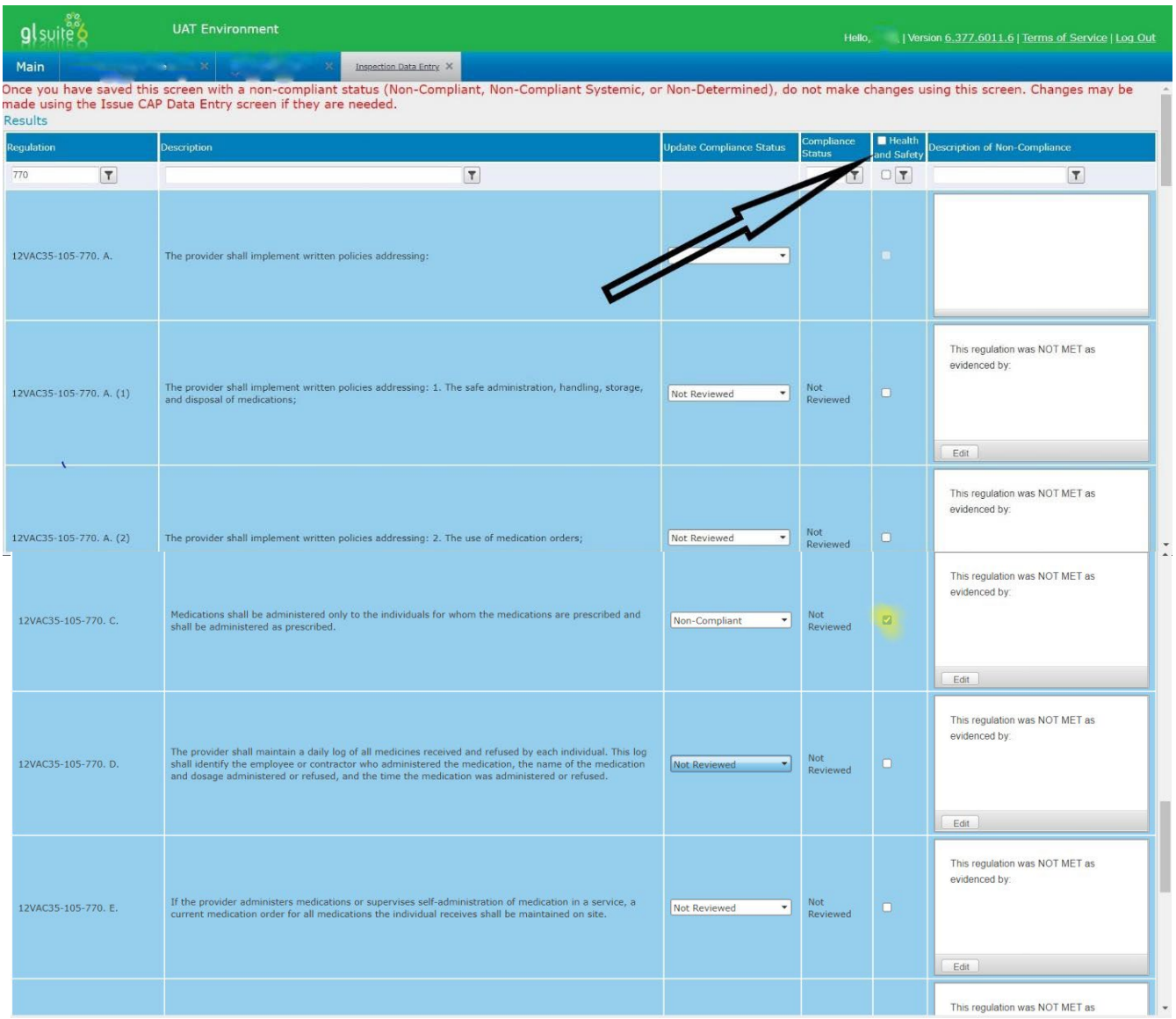
***Note: If a Health and Safety CAP cannot be fully accepted after the provider has submitted twice, (2 submissions), consultation with your manager should occur to discuss if the required re-inspection should occur before final approval of the CAP.**

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 whether 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.

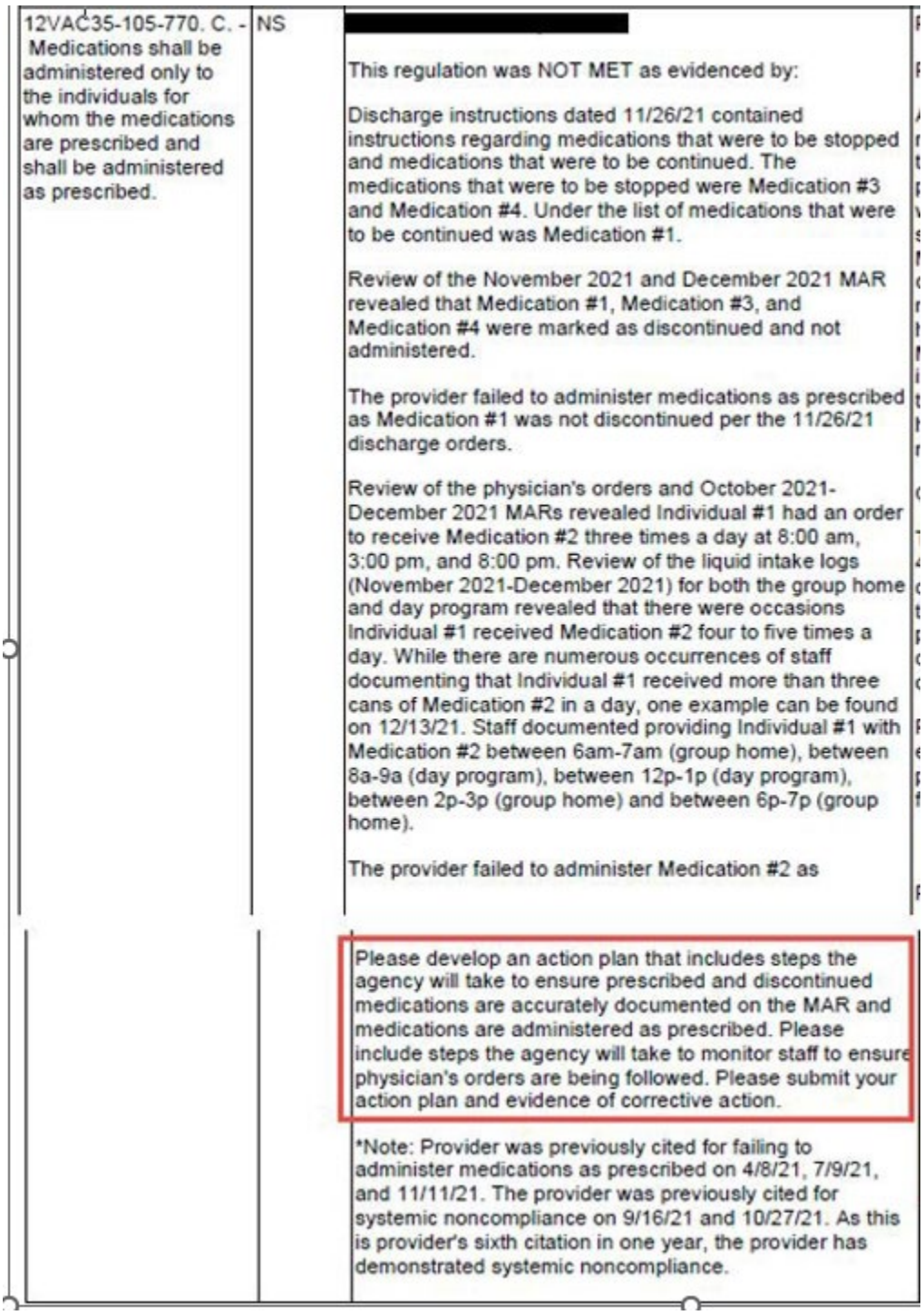
If a 3rd H&S LICENSING REPORT is issued on an inspection or investigation, discussion should occur with your manager and associate director regarding consideration for enhancement monitoring and/or potential referral for negative action and continued follow up would <u>cease</u> for that specific inspection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

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

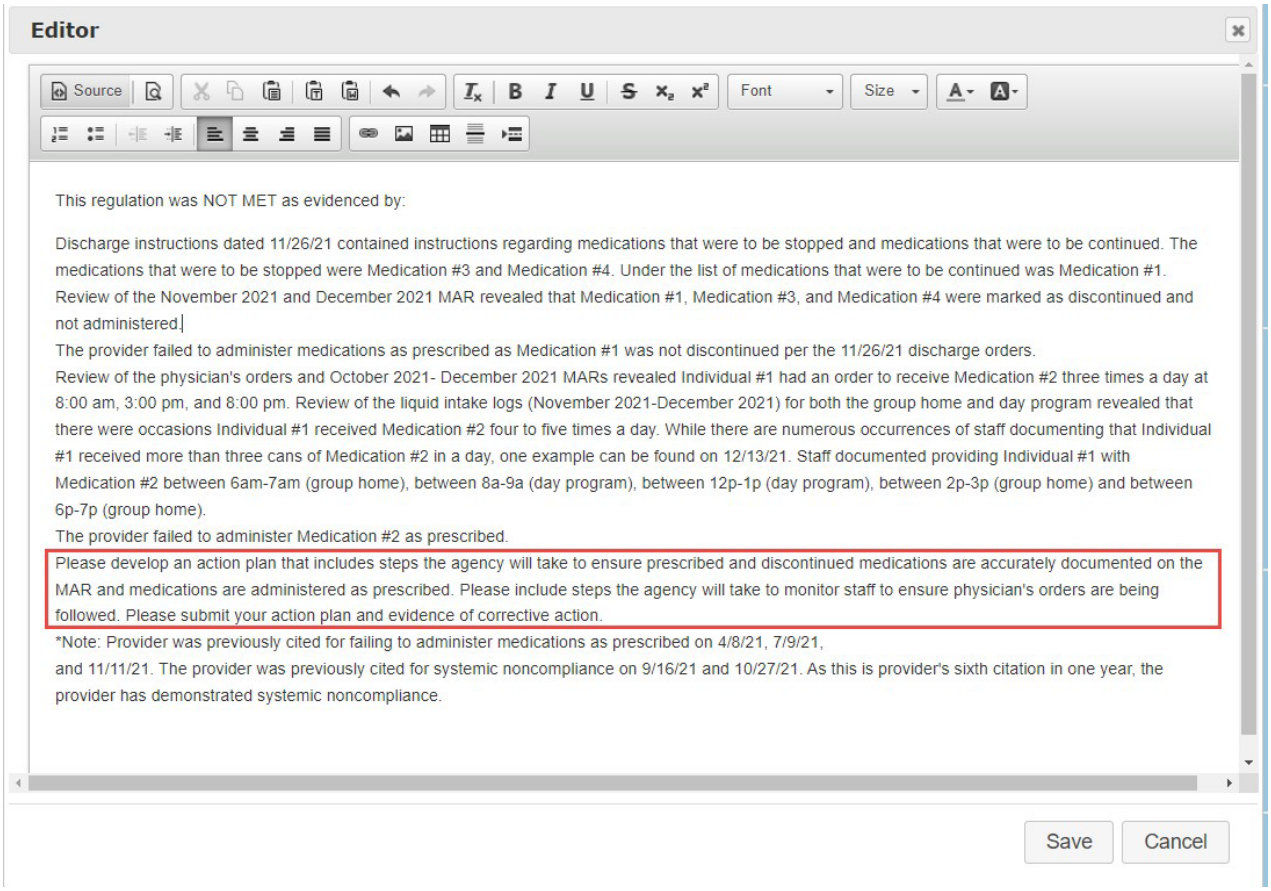
Initiating a Corrective Action Plan in CONNECT requires using the **Inspection Process Guide (Regular Inspection)** or the **Investigation Inspection Process Guide (Investigation Inspection).** Follow the steps to create and complete the inspection and the steps to create a Corrective Action Plan. From 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.



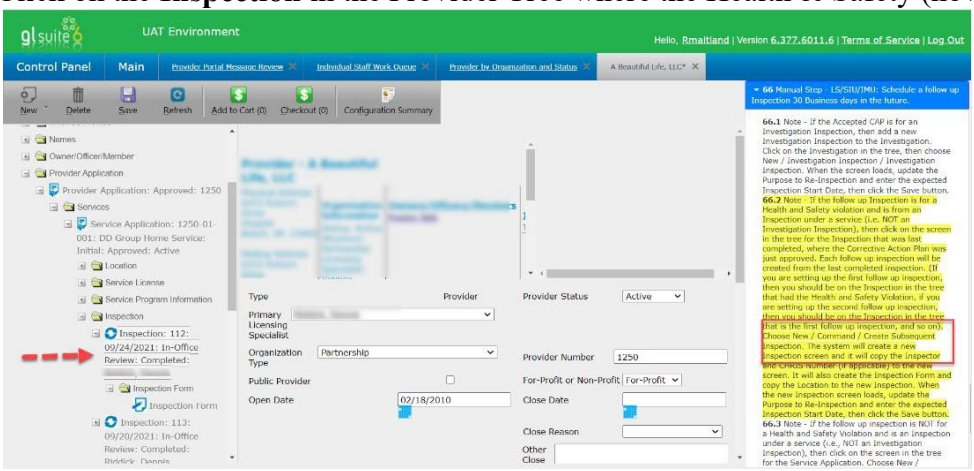
Note: The next step requires that you have completed the LICENSING REPORT process with the provider and the **CAP issued is Approved.**

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

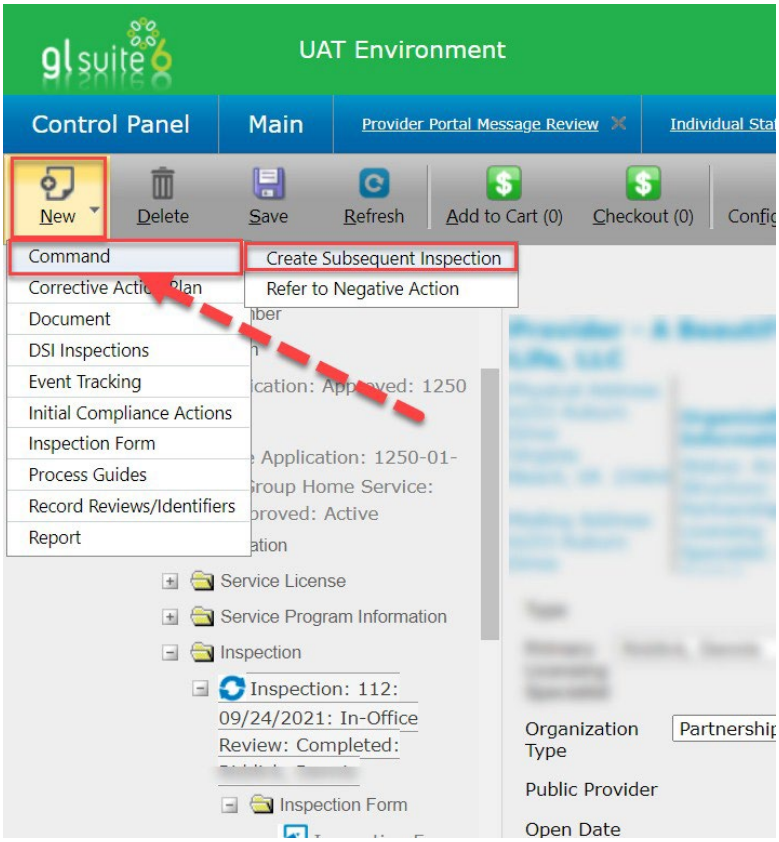
Once the Corrective Action Plan with the Health & Safety is approved, you must schedule a pending follow-up Inspection in CONNECT no more than 30 business days in the future. Note: 30 business days should be the maximum follow-up.

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

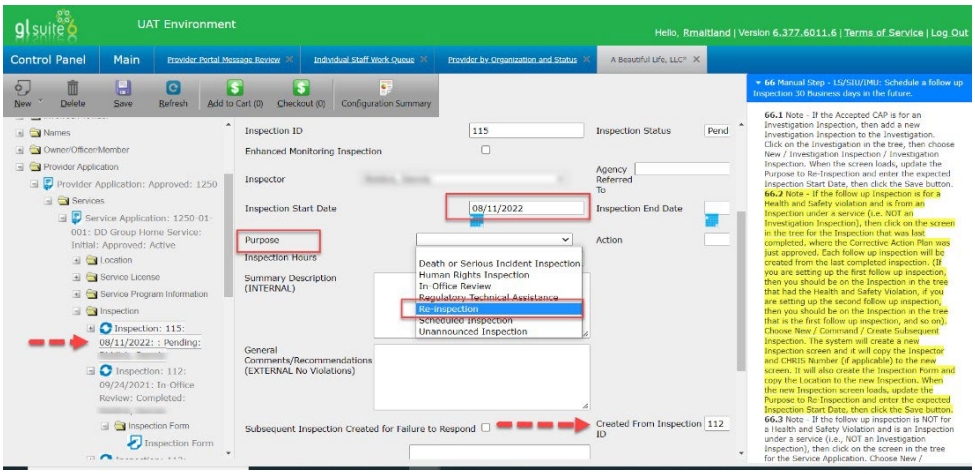
Click on the **Inspection** in the Provider Tree where the Health & Safety (now Approved CAP) lives in the tree.



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.

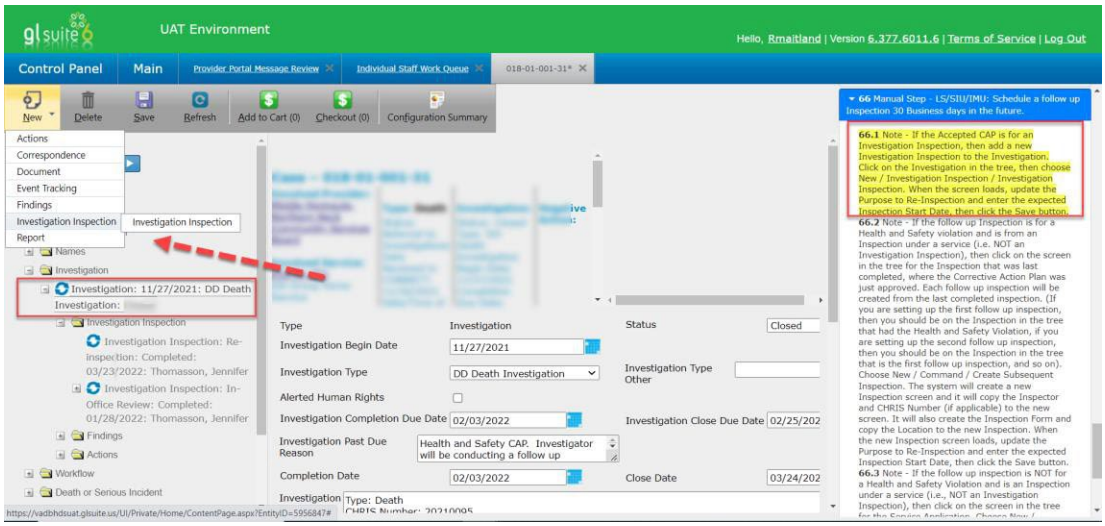
If for any reason there is required a 2nd follow-up inspection due to an additional citation during the follow-up related to the Health & Safety LICENSING REPORT, please follow the same steps to initiate a 2nd follow-up inspection.

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

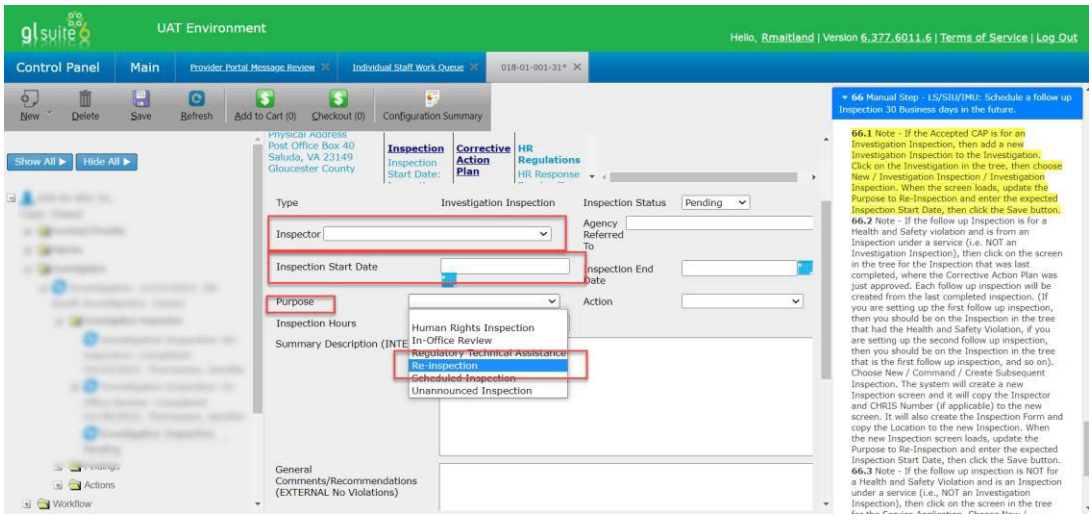
Once the Corrective Action Plan with the Health & Safety Investigation Inspection is approved, you should schedule a follow-up Investigation Inspection 30 days in the future. Note: 30 business days should be the maximum follow-up.

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.



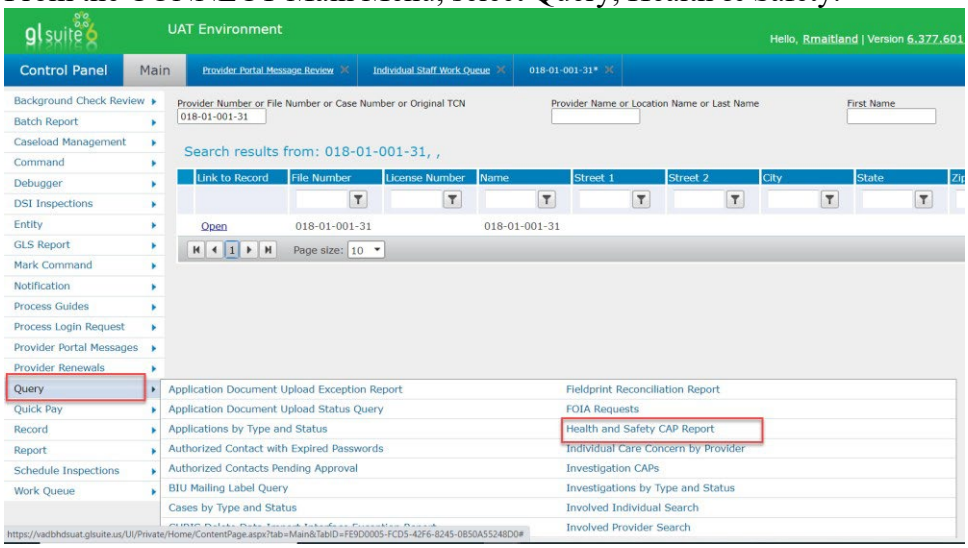
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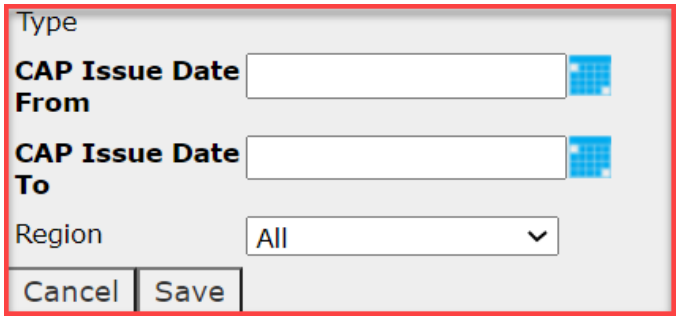
Step 3 – Running the Health & Safety CAP Query

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

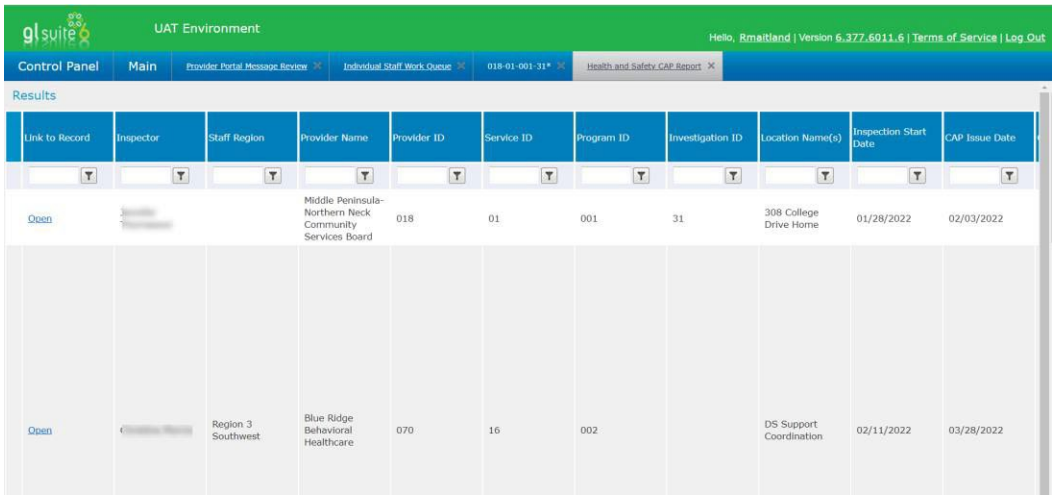
From the CONNECT Main Menu, select Query, Health & Safety.



Use the parameter criteria to define the query period



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



Monitoring Health & Safety CAP Query: LS/Investigators and Managers should run the Health and Safety CAP Query from Connect on a weekly basis. The purpose of running the query is to ensure all required follow-up visits are scheduled and have occurred in accordance with this memo. In addition, managers should run the report to look ahead and ensure staff are on target to complete the required follow-up re-inspections. LS/Investigators and Managers should also ensure all supporting documentation is uploaded into CONNECT, please reference Uploading Support Documentation instructions on page 5 of this memo.