

THE REGULATION AND QUALITY IMPROVEMENT AUTHORITY (RQIA)

NOTICE OF DECISION

<b>Name of Registered Agency:</b> Top Class Healthcare (RQIA ID: 020437)	<b>Name of Registered Person:</b> Top Class Healthcare Limited
<b>Address of Registered Agency:</b> 1 Castle Street, Portadown, BT62 1BA	
<b>Issue Date:</b> 9 June 2022	<b>NOD Ref:</b> NOD000075
<p>The Regulation and Quality Improvement Authority gives notice of a decision to cancel the registration of Top Class Healthcare Limited (RQIA ID: 020437) for which Acknowledge Ngwena is the Responsible Individual.</p> <p>The relevant parts of the Order and Regulations are as follows:</p> <p><b><i>The Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003,</i></b></p> <p><b><i>Article 15.—(1) The Regulation and Improvement Authority may at any time cancel the registration of a person in respect of an establishment or agency—</i></b> <i>(c) on the ground that the establishment or agency is being, or has at any time been, carried on otherwise than in accordance with the relevant requirements;</i> <i>d) on any ground specified by regulations.</i></p> <p><b><i>(3) In this Article “relevant requirements” means—</i></b> <i>(a) any requirements or conditions imposed by or under this Part; and</i> <i>(b) the requirements of any other statutory provision which appear to the Regulation and Improvement Authority to be relevant.</i></p> <p><i>and;</i></p> <p><b><i>The Domiciliary Care Agencies Regulations (Northern Ireland) 2007</i></b></p> <p><b><i>Fitness of the Registered Provider</i></b></p> <p><b><i>Regulation 8-</i></b></p> <p><b><i>(3) The requirements are that—</i></b> <i>(a) he is of integrity and good character;</i></p> <p><b><i>Registered person – general requirements and training</i></b></p>	

**Regulation 11.—(1)** *The registered provider and the registered manager shall, having regard to the size of the agency, the statement of purpose and the number and needs of the service users, carry on or (as the case may be) manage the agency with sufficient care, competence and skill.*

### **Conduct of agency**

**Regulation 14.** *Where the agency is acting otherwise than as an employment agency, the registered person shall make suitable arrangements to ensure that the agency is conducted, and the prescribed services arranged by the agency, are provided—*

- (a) so as to ensure the safety and well-being of service users;*
- (b) so as to safeguard service users against abuse or neglect;*
- (c) so as to promote the independence of service users;*
- (d) so as to ensure the safety and security of service users' property, including their homes;*
- (e) in a manner which respects the privacy, dignity and wishes of service users, and the confidentiality of information relating to them; and*

### **Arrangements for the provision of prescribed services**

**Regulation 15.—**

**(2)** *The registered person shall, after consultation with the service user, or if consultation with the service user is not practicable, after consultation with the service user's representative, prepare or ensure that a written plan ("the service user plan") is prepared which shall—*

- (a) be consistent with any plan for the care of the service user prepared by any Health and Social Services Trust or Health and Social Services Board or other person with responsibility for commissioning personal social services for service users;*
- (b) specify the service user's needs in respect of which prescribed services are to be provided;*
- (c) specify how those needs are to be met by the provision of prescribed services.*

**(4)** *The registered person shall, so far as is practicable, ensure that the prescribed services which the agency arranges to be provided to any service user meets the service user's needs specified in the service user plan prepared in respect of him.*

**(5)** *The registered person shall, for the purpose of providing prescribed services to service users, so far as is practicable—*

- (a) ascertain and take into account the service user's, and where appropriate their carer's, wishes and feelings;*
- (b) provide the service user, and where appropriate their carer, with comprehensive information and suitable choices as to the prescribed services that may be provided to them; and*
- (c) encourage and enable the service user, and where appropriate their carer, to make informed decisions with respect to such prescribed services.*

**(6)** *The registered person shall ensure that where the agency arranges the provision of prescribed services to a service user, the arrangements shall—*

- (a) specify the procedure to be followed after an allegation of abuse, neglect or other harm has been made;*

*(b) specify the circumstances in which a domiciliary care worker may administer or assist in the administration of the service user's medication, or any other tasks relating to the service user's health care, and the procedures to be adopted in such circumstances;*

*(c) include arrangements to assist the service user with mobility in his home, where required; and*

*(7) The registered person shall make arrangements for the recording, handling, safe keeping, safe administration and disposal of medicines used in the course of the provision of prescribed services to service users.*

*(8) The registered person shall make suitable arrangements, including training, to ensure that domiciliary care workers operate a safe system of working, including in relation to lifting and moving service users and the operation of any special equipment.*

*(9) The registered person shall make arrangements, by training or by other measures, to prevent service users being harmed or suffering abuse or neglect or being placed at risk of harm, abuse or neglect.*

*(10) The registered person shall ensure that no service user is subject to physical restraint unless restraint of the kind employed is the only practicable means of securing the welfare of that or any other service user and there are exceptional circumstances.*

*(11) On any occasion on which a service user is subject to physical restraint by a person who works as a domiciliary care worker for the purposes of the agency, the registered person shall record the circumstances, including the nature of the restraint.*

## **Staffing**

**Regulation 16.—(1)** *Where an agency is acting otherwise than as an employment agency, the registered person shall, having regard to the size of the agency, the statement of purpose and the number and needs of the service users, ensure that—*

*(a) there is at all times an appropriate number of suitably skilled and experienced persons employed for the purposes of the agency;*

*(b) appropriate information and advice are provided to persons employed for the purposes of the agency, and are made available to them at their request, in respect of—*

*(i) service users and their needs in respect of prescribed services; and*

*(ii) the provision of prescribed services to service users;*

*(c) suitable assistance and where necessary, appropriate equipment, is provided to persons working for the purposes of the agency, and is made available to them at their request, in respect of the provision of prescribed services to service users;*

**(2)** *The registered person shall ensure that each employee of the agency—*

*(a) receives training and appraisal which are appropriate to the work he is to perform;*

**(3)** *The registered person shall take such steps as may be necessary to address any aspect of the performance of a domiciliary care worker which is found to be unsatisfactory.*

**(4)** *The registered person shall ensure that each employee receives appropriate supervision.*

**(5)** Where an agency is acting otherwise than as an employment agency, the registered person shall ensure that—

- (a)** a new domiciliary care worker (“the new worker”) is provided with appropriately structured induction training lasting a minimum of three full working days; and
- (b)** during that induction training—
  - (i)** the new worker is not supplied to a service user unless accompanied by another domiciliary care worker who is a suitably qualified and competent person;
  - (ii)** a member of staff (“the staff member”) who is suitably qualified and experienced, is appointed to supervise the new worker;
  - (iii)** the staff member (or another suitably qualified and competent person if the staff member is unavailable) will always be available to be consulted while the new worker is on duty; and

### **Provision of information to service users**

**Regulation 18.—(1)** The registered person shall ensure that before a domiciliary care worker is supplied to a service user, the service user is informed of—

- (a)** the name of the domiciliary care worker to be supplied, and the means of contacting him;

### **Records**

**Regulation 21.—(1)** The registered person shall ensure that the records specified in Schedule 4 are maintained, and that they are—

- (a)** kept up to date, in good order and in a secure manner;

### **Assessment of quality of services**

**Regulation 23.—(1)** The registered person shall establish and maintain a system for evaluating the quality of the services which the agency arranges to be provided.

**(2)** At the request of the Regulation and Improvement Authority, the registered person shall supply to it a report, based upon the system referred to in paragraph (1), which describes the extent to which, in the reasonable opinion of the registered person, the agency—

- (a)** arranges the provision of good quality services for service users;

- (b)** takes the views of service users and their representatives into account in deciding—

- (i)** what services to offer to them, and

- (ii)** the manner in which such services are to be provided; and

**(4)** The report shall also contain details of the measures that the registered person considers it necessary to take in order to improve the quality and delivery of the services which the agency arranges to be provided.

**(5)** The system referred to in paragraph (1) shall provide for consultation with service users and their representatives.

**The reasons for serving this Notice of Decision are:**

RQIA received whistleblowing intelligence from three staff members of Top Class Healthcare on 3 and 7 March 2022. In addition, the Southern Health and Social Care Trust (SHSCT) shared concerns with RQIA on 10 March 2022 regarding the operation of the Agency. As a result, an unannounced inspection was undertaken to the Agency on 24 March 2022.

RQIA has identified significant concerns regarding the fitness of the Responsible Individual to carry on an Agency. This is with particular reference to the Responsible Individual, who is a registered nurse, having breached a protection plan put in place by the SHSCT in response to a number of ongoing safeguarding investigations. This protection plan specified that the Responsible Individual was to desist from delivering direct care calls to service users. The Responsible Individual was not open and honest and misled both the SHSCT and RQIA with regard to having delivered care calls to service users. On this basis RQIA is not assured of the integrity and good character of the registered person.

RQIA is not assured of the responsible individual's knowledge in respect of her obligations, as the Agency's Adult Safeguarding Champion, to report safeguarding concerns to the relevant bodies. A record of safeguarding reports had not been established, despite intelligence from the SHSCT that there were a number of ongoing safeguarding investigations in relation to the Agency. RQIA is concerned that service users are not protected from harm and would not have safe, effective and compassionate care delivered to them.

RQIA is not assured that the Responsible Individual has sufficient governance, management and oversight of the agency. There was a lack of evidence in demonstrating satisfactory oversight as to the care calls being undertaken by staff and there was an absence of a rota devised by the Agency. There were concerns regarding missed calls and late calls and these were neither identified nor addressed by way of a robust and comprehensive programme of monitoring. RQIA is not assured that there is a robust or consistent system to ensure that the delivered care was in line with that commissioned by the SHSCT. The registered person was unable to provide an accurate record of the number of service users who were receiving packages of care.

A robust system for the return of service users' daily logs was not in place and daily logs were not being returned to the Agency in a timely way; this resulted in a significant delay in the auditing process, hence any concerns identified could not be effectively addressed. The lack of safe systems has the potential to place service users at risk of harm.

There was a failure to implement robust systems and processes to ensure new and existing staff receive a structured induction, training and supervision. This has the potential to place vulnerable service users at risk of harm from staff who do not have the right experience, skills, knowledge and training to competently deliver the right care, at the right time, or respond to the service users' changing needs.

In addition, there was no evidence that staff were assessed as being competent in the administration of medication which could also place service users at risk of harm.

RQIA is not assured that arrangements for monitoring the quality of services provided by the Agency were sufficiently robust; in addition, the Responsible Individual lacked sufficient oversight of these arrangements to ensure they were effective. In the absence of a robust system to monitor or drive improvement, RQIA is not assured that safe, effective and compassionate care was being delivered to service users.

RQIA issued five Failure to Comply notices in June 2020, and whilst improvements were made at the time, these have not been sustained, given the significant number of deficits identified during the inspection of 24 March 2022 and intelligence from the SHSCT.

There is a requirement to maintain complete records in relation to the operation of the Agency, the absence of robust records, has resulted in the Responsible Individual not being in a position to evidence that safe, effective, compassionate and well led care is being delivered. Furthermore, there was a lack of evidence to demonstrate continuous monitoring and auditing in order to identify deficits or to effectively plan improvements. RQIA is concerned that the Agency is not in a position to provide service users with the best possible care and support, nor does it provide assurance that this Agency has the capacity to achieve compliance with Regulations and Minimum Standards.

**Under Article 22 of the 2003 Order the Registered Person/Applicant may, within 28 days of the service of this notice, make an appeal to the Care Tribunal concerning any matter which that person wishes to dispute.**



Signed..... Chief Executive

***This notice is served under Article 20 of The Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003.***

***It should be noted that failure to comply with some regulations is considered to be an offence and RQIA has the power under regulations to prosecute for specified offences.***