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Synopsis Federal CNA Requirements

COVID Blanket Waivers - Centers for Medicare & Medicaid Services

Training and Certification of Nurse Aides. CMS is waiving the requirements at 42 CFR 483.35(d) (with the exception of 42 CFR 483.35(d)(1)(i)), which require that a SNF and NF may not employ anyone for longer than four months unless they met the training and certification requirements under § 483.35(d). CMS is waiving these requirements to assist in potential staffing shortages seen with the COVID-19 pandemic. To ensure the health and safety of nursing home residents, CMS is not waiving 42 CFR § 483.35(d)(1)(i), which requires facilities to not use any individual working as a nurse aide for more than four months, on a full-time basis, unless that individual is competent to provide nursing and nursing related services. We further note that we are not waiving § 483.35(c), which requires facilities to ensure that nurse aides are able to demonstrate competency in skills and techniques necessary to care for residents' needs, as identified through resident assessments, and described in the plan of care.

42 CFR, Subpart B – REQUIREMENTS FOR LONG TERM CARE FACILITIES

§ 483.35 – Nursing Services

(c) *Proficiency of nurse aides.* The facility must ensure that nurse aides are able to demonstrate competency in skills and techniques necessary to care for residents' needs, as identified through resident assessments, and described in the plan of care.

(d) *Requirements for facility hiring and use of nursing aides -*

(1) *General rule.* A facility must not use any individual working in the facility as a nurse aide for more than 4 months, on a full-time basis, unless -

(i) That individual is competent to provide nursing and nursing related services; and

(ii)

(A) That individual has completed a training and competency evaluation program, or a competency evaluation program approved by the State as meeting the requirements of §§ 483.151 through 483.154; or

(B) That individual has been deemed or determined competent as provided in § 483.150(a) and (b).

(2) *Non-permanent employees.* A facility must not use on a temporary, per diem, leased, or any basis other than a permanent employee any individual who does not meet the requirements in paragraphs (d)(1) (i) and (ii) of this section.

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(3) *Minimum competency.* A facility must not use any individual who has worked less than 4 months as a nurse aide in that facility unless the individual -

- (i) Is a full-time employee in a State-approved training and competency evaluation program;
- (ii) Has demonstrated competence through satisfactory participation in a State-approved nurse aide training and competency evaluation program or competency evaluation program; or
- (iii) Has been deemed or determined competent as provided in § 483.150(a) and (b).

(4) *Registry verification.* Before allowing an individual to serve as a nurse aide, a facility must receive registry verification that the individual has met competency evaluation requirements unless -

- (i) The individual is a full-time employee in a training and competency evaluation program approved by the State; or
- (ii) The individual can prove that he or she has recently successfully completed a training and competency evaluation program or competency evaluation program approved by the State and has not yet been included in the registry. Facilities must follow up to ensure that such an individual actually becomes registered.

42 CFR, Subpart D – REQUIREMENTS THAT MUST BE MET BY STATES AND STATE AGENCIES: NURSE AIDE TRAINING AND COMPETENCY EVALUATION, AND PAID FEEDING ASSISTANTS

§ 483.152 *Requirements for approval of a nurse aide training and competency evaluation program.*

(a) For a nurse aide training and competency evaluation program to be approved by the State, it must, at a minimum—

- (1) Consist of no less than 75 clock hours of training;
- (2) Include at least the subjects specified in paragraph (b) of this section;
- (3) Include at least 16 hours of supervised practical training. Supervised practical training means training in a laboratory or other setting in which the trainee demonstrates knowledge while performing tasks on an individual under the direct supervision of a registered nurse or a licensed practical nurse;
- (4) Ensure that—
 - (i) Students do not perform any services for which they have not trained and been found proficient by the instructor;