



**Order of the Department of Health and Social Services**

Pursuant to the authority established in Governor John Carney's Declaration of a State of Emergency and 16 *Del.C.* §122(3) and 16 *Del.C.* Ch. 11, Dr. Karyl T. Rattay, Director of the Division of Public Health, on behalf of the Department of Health and Social Services, the waivers of regulatory requirements for Skilled and Intermediate Care Facilities and Assisted Living Facilities that went into effect April 9, 2020 and September 16, 2020 are rescinded as follows:

**Skilled Care and Intermediate Care Facilities**

**Waivers of the following regulations are rescinded as of July 13, 2021:**

- Administrative Code, 3201, 6.2.4 - All written or verbal physician orders shall be signed by the attending physician or prescriber within 10 days.
- Administrative Code, 3201, 6.3.4 - The resident assessment shall include a screening instrument for mental illness, mental retardation, and developmental disabilities to assess if an individual has an active treatment need for one of these conditions.
- Administrative Code, 3201, 6.9.2.4 - Minimum requirements for pre-employment tuberculosis (TB) testing require all employees to have a base line two step tuberculin skin test (TST) or single Interferon Gamma Release Assay (IGRA or TB blood test) such as QuantiFeron. Any required subsequent testing according to risk category shall be in accordance with the recommendations of the Centers for Disease Control and Prevention of the U.S. Department of Health and Human Services. Should the category of risk change, which is determined by the Division of Public Health, the facility shall comply with the recommendations of the Center for Disease Control for the appropriate risk category.

o While the requirement for a two-step test is waived, facilities must complete a one-step TB test upon employment.

**Administrative Code, 3225, Assisted Living Facilities**

**Waivers of the following regulations are rescinded as of July 13, 2021:**

- 5.9.4 - An assisted living facility shall not admit, provide services to, or permit the provision of services to individuals who, as established by the resident assessment: Are bedridden for more than 14 days.

o This waiver pertains only to those residents who are COVID+ or COVID symptomatic. The facility shall provide needed services by appropriate health care professionals and assure that all of the resident's needs will be met.

- 5.9.7 - An assisted living facility shall not admit, provide services to, or permit the provision of services to individuals who, as established by the resident assessment: Require treatment for a disease or condition which requires more than contact isolation.

o This waiver pertains only to those residents who are COVID+ or COVID symptomatic. The facility shall provide needed services by appropriate health care professionals and assure that all of the resident's needs will be met.

- 9.5.2 - Minimum requirements for pre-employment require all employees to have a base line two step tuberculin skin test (TST) or single Interferon Gamma Release Assay (IGRA or TB blood test) such as QuantiFERon. Any required subsequent testing according to risk category shall be in accordance with the recommendations of the Centers for Disease Control and Prevention of the U.S. Department of Health and Human Services. Should the category of risk change, which is determined by the Division of Public Health, the facility shall comply with the recommendations of the Center for Disease Control for the appropriate risk category.

o While the requirement for a two-step test is waived, facilities must complete a one-step TB test upon employment.

Administrative Code, 3220, Training and Qualifications for Certified Nursing Assistants

**Waivers of the following regulations are rescinded as of July 13, 2021:**

- 4.1.1 - All CNAs hired to work in a facility shall undergo a minimum of 80 clock hours of orientation, at least 40 of which shall be clinical.

o The facility is required to provide orientation to infection control, emergency procedures within the building, and orientation to the residents they are assigned to care for.

- The requirement that nursing assistant students demonstrate safety and emergency procedures including proficiency in the Heimlich maneuver and certification in cardiopulmonary resuscitation (CPR). However, any nursing assistant who has not demonstrated proficiency as required must remain under the direct supervision of a registered nurse who is CPR certified.

**The following waivers are hereby modified effective July 13, 2021:**

- An individual that has completed, and received a certificate of completion from, the 8hour ACHA/NCAL nurse aide training course is hereby authorized to provide direct patient care, so long as any such individual is directly supervised by a certified nursing assistant who holds an active Delaware certification. Any such individual is authorized to provide non-direct patient care under the general supervision of a certified nursing assistant who holds an active Delaware certification.

- Modification: Individuals that completed the eight (8) hour ACHA/NCAL nurse aide training course prior to 7/13/21 may continue to provide direct care so long as any such individual is directly supervised by a certified nursing assistant who holds an active Delaware certification. Such individuals must be certified as a certified nursing assistant to provide direct care after 12/31/21.

- The requirement in 16 Del. C. § 3002A that student nursing assistants receive 75 clock hours of clinical training during the total of 150 clock hours of training is hereby waived. Nursing Assistant Students will be required to meet the federal requirement of 16 clock hours of clinical training under 42 CFR §483.152. Appropriate online teaching modalities may be utilized for the classroom portion of the training.

- Modification: This waiver will be in effect until December 31, 2021.

- The requirement that nursing assistants receive 75 clock hours of clinical skills training in a Department approved Delaware licensed nursing facility. Nursing assistant students shall be permitted to complete their 16 clock hours of clinical practicum in either a long-term care setting or a hospital setting, under the direct supervision of a registered nurse.

- Modification: This waiver will be in effect until December 31, 2021.



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Director