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GAVIN NEWSOM
Governor

September 8, 2021

AFL 20-35.5

TO: All Facilities

SUBJECT: Suspension of Professional Certification Requirements for Certified Nurse Assistants (CNAs)
(This AFL supersedes AFL 20-35.4)

AUTHORITY: Proclamation of a State of Emergency (PDF), Executive Order N-39-20 (PDF), and Executive Order N-08-21 (PDF)

All Facilities Letter (AFL) Summary

- This AFL notifies all facilities of a temporary waiver of specified statutory and regulatory requirements for CNAs due to the state of emergency related to the COVID-19 outbreak.
- This AFL revision informs all facilities and applicants that the temporary waiver of specified regulatory requirements contained in this AFL are extended until December 31, 2021, in compliance with Executive Order N-12-21 (PDF).
- This revision informs applicants and certificate holders how to obtain/maintain an active/employable status after the expiration of the listed waivers on December 31, 2021.

Background

Pursuant to the Governor's Executive Order N-39-20 (PDF) related to the COVID-19 state of emergency, the Director of the California Department of Public Health (CDPH) may waive any of the professional certification requirements and amend scopes of practice of Chapter 2 of Division 2 of the Health and Safety Code (HSC) and accompanying regulations with respect to CNAs. CDPH is temporarily waiving specified CNA requirements and suspending regulatory enforcement contained in this AFL.

Due to increasing circulation of more transmissible variants of the SARS-CoV-2 virus and the rapid rise of COVID-19 incidence in California, and in compliance with Executive Order N-12-21 (PDF), the temporary waivers contained in this AFL have been extended and will expire December 31, 2021.

Initial Certification

1. **HSC section 1337.5(b)(2)-(3) and Title 22 of the California Code of Regulations (CCR) section 71835(j):** A nurse assistant enrolled in an approved certification training program may continue to be employed for more than 3 months after the start date of employment. A nurse assistant may delay completion of the training program and competency testing but is encouraged to complete the program as training programs resume. A nurse assistant who has not completed the training program shall only render services at the competency level confirmed by the training program on a competency checklist to be shared with the facility.

Effective December 31, 2021, the above waiver will expire. All nurse assistants employed under this waiver must complete the initial certification program to continue to providing care.

2. **Title 22 CCR section 71835(f):** Due to the current state of emergency, a nurse assistant enrolled in an approved certification training program or competency evaluation program may provide patient care prior to having a test for tuberculosis infection.

Effective December 31, 2021, the above waiver will expire. All nurse assistants must complete the test for tuberculosis infection as soon as practical but no later than December 31, 2021, to continue providing care.

Renewal

3. **HSC sections 1263(c), 1337.1(e)(2), 1337.6 and Title 22 CCR section 71839:** All CNAs in an active status are encouraged to renew following normal timelines. A CNA seeking certificate renewal may complete any of the 48 required hours of in-service or continuing education units at any time during the 2-year recertification period and may complete all the required 48 hours through online or distance learning formats.

Effective December 31, 2021, the above waiver will expire. All CNAs with an existing waiver must complete in-service and continuing education requirements and renew their certification to continue providing care. CDPH encourages submission of renewal applications well in advance of the waiver expiring.

Expired Certification

4. **HSC section 1337.6 and Title 22 CCR section 71839:** A CNA whose certification expired no earlier than March 30, 2018, or whose certification will expire during the state of emergency, and who remains in an "employable during state of emergency" status may work as a CNA without renewal. All facilities must check CDPH's online verification page to verify employment eligibility. Only those CNAs with a status of "active" or "employable during state of emergency" may be employed. A CNA who remains in an "employable during state of emergency" status will be allowed to complete in-service or continuing education units and count them towards renewal of the certification. Any of the 48 hours of in-service and continuing education may be completed through online or distance learning formats.

Effective December 31, 2021, the waiver will expire. All CNA's employed under this waiver must renew their certification to continue providing care.

Reciprocity

5. **HSC section 1337.2(d)-(e):** A licensed vocational nurse (LVN) or registered nurse (RN) seeking certification and possessing a valid license issued by another state or foreign country, whether active or expired within the last 2 years, may begin working as a CNA immediately upon submission of an application for certification to CDPH.

Effective December 31, 2021, the above waiver will expire. All LVNs or RNs must receive CNA certification approval to continue providing care.

Report of Change

6. **HSC section 1337.6(j):** A CNA must notify CDPH of a change of address as soon as practicable, but no later than 30 days after the expiration of the state of emergency.

Effective December 31, 2021, the above waiver will expire. A CNA must notify CDPH of a change of address as soon as practicable, but no later than December 31, 2021.

Program Flexibility Requests

All temporary waivers of specified statutory and regulatory requirements for CNAs due to the state of emergency related to the COVID-19 outbreak will expire effective December 31, 2021. Requests for regulatory waivers not specified in this AFL or requests to extend a program flexibility after the December 31, 2021 expiration date must be submitted to Healthcare Workforce Branch, CNA Review/eLearning & Licensing Section via email at TPRU@cdph.ca.gov using the CDPH 5000A (PDF). All program flexibility requests are reviewed by CDPH on a case-by-case basis.

If you have any questions about this AFL, please contact the Healthcare Workforce Branch, CNA Review/eLearning & Licensing Section via email at cna@cdph.ca.gov. Please include reference to AFL 20-35.5: Suspension of Professional Certification Requirements for CNAs in the subject line of the email.

Any future AFLs related to temporary emergency waivers of statutory requirements for CNAs, NATPs, or competency examinations may be found on CDPH's All Facilities Letters webpage.

Sincerely,

Original signed by Cassie Dunham

Cassie Dunham
Acting Deputy Director

Resources:

- Proclamation of a State of Emergency (PDF)
- Executive Order N-39-20 (PDF)
- Executive Order N-08-21 (PDF)
- Executive Order N-12-21 (PDF)
- CDPH form 5000A (PDF)

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