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**California Department of
Public Health**



GAVIN NEWSOM
Governor

March 16, 2022

AFL 20-40.4

TO: All Facilities
Nurse Assistant Training Programs

SUBJECT: Suspension of Specified Regulatory Requirements for Nurse Assistant Training Programs (NATPs)
(This AFL supersedes AFL 20-40.3)

AUTHORITY: Proclamation of a State of Emergency (PDF)
Executive Orders N-39-20 (PDF), N-08-21 (PDF), N-12-21 (PDF), N-21-21 (PDF), and N-04-22 (PDF)

All Facilities Letter (AFL) Summary

- This AFL notifies all facilities of a temporary waiver of specified statutory and regulatory requirements for NATPs and nursing facilities due to the state of emergency related to the COVID-19 outbreak.
- In accordance with Executive Order N-04-22 (PDF), issued February 25, 2022, this AFL extends the temporary waiver of specified regulatory requirements contained in this AFL until June 30, 2022.

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 certified nurse assistants (CNAs). CDPH is temporarily waiving specified statutory requirements and suspending regulatory enforcement for NATPs and nursing facilities that provide instruction and training to nurse assistants (NAs) seeking certification as CNAs.

Due to ongoing circulation of more transmissible variants of the SARS-CoV-2 virus and the continuing incidence of COVID-19 in California, and in compliance with Executive Order N-04-22 (PDF), the temporary waivers contained in this AFL have been extended and will expire June 30, 2022.

Theory and Clinical Training

1. **HSC section 1337.1(b)(1) and Title 22 of the California Code of Regulations (CCR) section 71835(k):** A NATP may provide the 60 required hours of classroom training through an online or distance learning format and may begin providing online or distance learning training immediately upon electronic submission of notification to CDPH.
2. **Title 22 CCR section 71835(g) and (k):** A nursing facility may conduct clinical training at any time of the day or night and on any day of the week and may implement an alternate schedule immediately upon electronic submission of notification to CDPH.

Effective June 30, 2022, these training waivers, allowing NATPs and nursing facilities flexibility in how they provide

training, will expire. NATPs that have not been previously approved by CDPH and wish to continue providing online training or distance training must apply to the e-Learning Unit at eLearning@cdph.ca.gov to establish a permanent online agreement. Additionally, NATPs seeking online, or distance training must obtain CDPH approval by June 30, 2022. CDPH strongly recommends submitting online training requests to eLearning@cdph.ca.gov well in advance of the expiration of this waiver.

Staff Recruitment

3. **Title 22 CCR section 71829(a):** A nursing facility whose Director of Staff Development (DSD) has terminated employment may use a licensed nurse that meets the DSD qualifications to serve in this role without showing evidence to CDPH of recruitment efforts to replace the DSD.

Effective June 30, 2022, the above staff recruitment waiver for the DSD position will expire.

Pursuant to Title 22 CCR section 71829(a) nursing facilities must provide CDPH notification within 30 days following employment of a new DSD or Instructor. If a facility did not provide notification of employment of a new DSD or instructor to CDPH due to the above waiver they must do so no later than July 30, 2022.

In-Service Training

4. **Title 22 CCR section 71847(h):** A nursing facility whose in-service training is due for review and approval by CDPH is encouraged to submit timely but may delay submission of a renewal request until as soon as practicable but no later than June 30, 2022.

5. **Title 22 CCR section 71847(b):** A nursing facility may provide annual in-service training through an online or distance learning format and may begin providing online or distance learning training immediately upon electronic submission of notification to CDPH.

Effective June 30, 2022, the above waiver of in-service training will expire.

Continuing Education Training

6. **Title 22 CCR section 71845(b):** An online or classroom-based continuing education provider whose continuing education training agreement is due for review and approval by CDPH is encouraged to submit timely but may delay submission of a renewal request until as soon as practicable but no later than June 30, 2022.

7. **Title 22 CCR section 71845(a) and (g):** A continuing education provider approved by CDPH to provide continuing education courses may provide the training through an online or distance learning format and may begin online or distance learning instruction immediately upon electronic submission of notification to CDPH.

Effective June 30, 2022, the above continuing education training waiver will expire.

Orientation

8. **Title 22 CCR section 71833(a):** A nursing facility may provide a portion of the required orientation program activities through an online or distance learning format and may begin providing online or distance learning orientation activities immediately upon electronic submission of notification to CDPH.

Effective June 30, 2022, the above orientation waiver will expire.

Program Flexibility Requests

As a result of this temporary waiver, NATPs and nursing facilities do not need to submit individual program flexibility requests for the waivers specified above until June 30, 2022; however, NATPs and nursing facilities are still required to submit notification to CDPH of changes to core curriculum, training hours, program staff, or contracted services. Notification shall be submitted to the Healthcare Workforce Branch, CNA Review/eLearning & Licensing Section via email at TPRU@cdph.ca.gov.

NATPs and nursing facilities may also apply for waivers of other requirements not specified above, such as alternative ways to conduct clinical training such as simulation or laboratory return demonstration. Requests for specific emergency waivers must be submitted to CNA Review/eLearning & Licensing Section via email at TPRU@cdph.ca.gov using the CDPH 5000A (PDF).

If you have any questions about this AFL, please contact the Healthcare Workforce Branch, TPRU via email at TPRU@cdph.ca.gov.

Sincerely,

Original signed by Cassie Dunham

Cassie Dunham

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)
- Executive Order N-21-21 (PDF)
- Executive Order N-04-22 (PDF)
- CDPH 5000A (PDF)

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Page Last Updated : March 16, 2022