Indiana State Department of Health
An Equal Opportunity Employer

Eric J. Holcomb
Governor

Kristina Box, MD, FACOG
State Health Commissioner

SECOND EMERGENCY ORDER GRANTING TEMPORARY BLANKET WAIVERS FOR COMPREHENSIVE CARE FACILITIES

Pursuant to the "Declaration of Public Health Emergency for Coronavirus Disease 2019 Outbreak" issued by Governor Eric Holcomb on March 6, 2020 (the "Governor's Declaration") and IC 4-21.5-4-1, and as authorized by IC 16-28-1-10 and the September 18, 1991 resolution of the Executive Board of the Indiana State Department of Health ("ISDH"), the Indiana State Health Commissioner hereby **ORDERS** as follows:

Compliance by licensed Indiana comprehensive care facilities with portions of certain state rules is **WAIVED**, subject to the specific terms, conditions, and limits set forth below:

1. The requirements of 410 IAC 16.2-3.1-10 ("Living arrangements") are waived to facilitate necessary resident moves on a rapid basis when needed.

2. The requirement under 410 IAC 16.2-3.1-12(a)(7) ("Transfer and discharge rights") that "the notice of transfer or discharge required under subdivision (6) must be made by the facility at least thirty (30) days before the resident is transferred or discharged" is waived with modification as follows:
The notice of transfer or discharge required under 410 IAC 16.2-3.1-12(a)(6) must be made by the facility as soon as practicable before the resident is transferred or discharged.

3. The requirement under 410 IAC 16.2-3.1-14(b) ("Personnel") that a "facility must not use any individual working in the facility as a nurse aide for more than four (4) months" unless the individual has completed required training and testing is waived with modification as follows:
A facility must not use any individual working in the facility as a nurse aide for more than eight (8) months unless the individual has completed required training and testing.

4. The requirement of 410 IAC 16.2-1-14(c)(1) ("Personnel") that each facility's nurse aide training program shall include "[t]hirty (30) hours of classroom instruction within one hundred twenty (120) days of employment" is waived with modification as follows:
Each facility's nurse aide training program shall include thirty (30) hours classroom instruction within two hundred forty (240) days of employment.

5. The requirements of 410 IAC 16.2-3.1-22(d) ("Physician services") concerning physician visit schedules are waived to facilitate telemedicine and other means of physician contact and oversight. This waiver does not affect any applicable duty or standard of care that may exist under other law.

6. The requirements of 410 IAC 16.2-3.1-33(b)(1)-(7) and (9) are waived. Under this waiver, **the activities specified in 410 IAC 16.2-3.1-33(b)(1)-(7) and (9) are not required to be part of the facility's plan of activities.**

7. The requirements of 410 IAC 16.2-3.1-53 ("Dining assistants") are waived with modification as follows:

   An individual not otherwise permitted to perform dining assistant functions in accord with 410 IAC 16.2-3.1-53 may provide dining assistance to a facility's residents if the facility documents that:

   A. **The individual has been trained by a registered nurse, licensed practical nurse, dietician, occupational therapist, speech therapist, or speech language pathologist on the following:**
      1. **Feeding techniques appropriate to the individual resident(s);**
      2. **Special diets including physician ordered altered thickened liquid;**
      3. **Reporting food and fluid intake;**
      4. **Infection control;**
      5. **Safety/emergency procedures including the Heimlich maneuver; and**
      6. **Abuse, neglect and misappropriation of property, if such training has not already been given; and**

   B. **The individual is prohibited from (1) providing dining assistance to residents with known choking or swallowing difficulties, and (2) administering or overseeing tube or parenteral/IV feedings.**

8. No other state rule or portion of a state rule is affected by this Emergency Order or the waivers granted herein.

9. Each waiver granted herein is effective as of March 6, 2020, and shall expire upon the earliest of (a) expiration or revocation of the Governor's Declaration, including any extensions thereof; (b) revocation of this Emergency Order; or (c) expiration of this Emergency Order under IC 4-21.5-4-5(a)(3), including any extensions thereof, plus such additional time as the ISDH deems necessary to enable an orderly transition by facilities back to compliance with the rules or parts of rules herein waived.

10. The waivers granted herein are unique to the present emergency, and are strictly limited in effect to this time and specific situation. No part of the waivers or their language, terms or conditions shall apply or have relevance to other waivers or situations. These waivers neither establish nor continue any precedent, policy, or approach for issuance of waivers individually or in general.

11. The ISDH has affirmatively determined that granting the waivers herein will not adversely affect the health, safety and welfare of any affected residents or patients.

SO ORDERED as of the date set forth below.

Kristina Box, MD, FACOG
State Health Commissioner

By: _____
Matthew Foster, Assistant Commissioner
Consumer Services & Health Care Regulation

Date: March 21, 2020