Indiana State Department of Health
An Equal Opportunity Employer

Eric J. Holcomb
Governor

Kristina Box, MD, FACOG
State Health Commissioner

FOURTH 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 and as supplemented (the "Governor's Declaration"), and as authorized by IC 4-21.5-4-1, 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:

The following state requirements and procedures for licensed Indiana comprehensive care facilities are **WAIVED**, subject to the specific terms, conditions, and limits set forth below:

1. Pursuant to and as authorized by the "Provision of Services in Alternative Settings" section of the Section 1135 waiver granted to Indiana by CMS on March 25, 2020, ISDH **orders** as follows:

   Any comprehensive care facility that has (1) declared a COVID-19 facility emergency and (2) notified ISDH of the declaration may:

   a. **Render care and required services to a resident in any resident bed or room within the facility, without regard for whether the bed or room is certified or otherwise approved for a particular category of residents or reimbursement (e.g., Medicaid); and**

   b. **Render care and services to a resident relocated to unlicensed space within the facility, or to a different facility not licensed to provide skilled nursing care, provided that the relocating facility (1) immediately gives notice to ISDH and provides full details of the relocation (e.g., resident name, new location, expected length of relocation); (2) continues meeting all the resident's care and safety needs; and (3) notifies ISDH when the resident returns to the resident's prior room or to a different resident room in its licensed space.**

2. The requirements of 410 IAC 16.2-3.1-2(d) and (e) (under "Licenses"), which related to remodels, structural changes, and bed changes, are **waived** for any comprehensive care facility that has (1) declared a COVID-19 facility emergency and (2) notified ISDH of the declaration, conditioned as follows:

   A. An existing facility may remodel or make other structural changes that vary from a previously approved building and floor plan under the following terms:

1. No later than three (3) days after the remodel or other change has been completed, the facility must:

    a. Notify ISDH of the change,
    b. Supply ISDH with drawings and supporting narrative sufficient to show and describe what changes have been or will be made, and
    c. Request temporary approval of the change by ISDH, with retroactive effect if needed.

2. If the facility does not wish to make permanent any remodel or other changes completed under this waiver, the facility must:

    a. Roll back or undo the change within forty-five (45) days after expiration or withdrawal of the Governor's Declaration.
    b. Notify ISDH as soon as the rollback or undoing has been completed.

3. If the facility does wish to make permanent any remodel or other structural changes completed under this waiver, it must submit a request for permanent approval to the ISDH Health Care Engineering program.

    a. The request must be submitted to ISDH no later than forty-five (45) days after expiration or withdrawal of the Governor's Declaration.
    b. Review of the request will proceed under the applicable law and guidance in effect at the time of the request.

B. An existing facility may relocate, convert, and reclassify beds and renumber rooms (collectively "bed changes") under the following terms:

1. No later than three (3) days after the bed change has been effected, the facility must:

    a. Notify ISDH of the bed change,
    b. Supply ISDH with drawings and supporting narrative sufficient to show and describe what bed changes have been or will be made, and
    c. Request temporary approval of the bed change by ISDH, with retroactive effect if needed.

2. If the facility does not wish to make permanent any bed change effected under this waiver, the facility must:

    a. Roll back or undo the bed change within forty-five (45) days after expiration or withdrawal of the Governor's Declaration.
    b. Notify ISDH as soon as the rollback or undoing has been completed.

3. If the facility does wish to make permanent any bed change effected under this waiver, it must submit a request for permanent approval to the ISDH Health Care Engineering program.

a. The request must be submitted to ISDH no later than forty-five (45) days after expiration or withdrawal of the Governor's Declaration.
b. Review of the request will proceed under the applicable law and guidance in effect at the time of the request.

3. The requirements of 410 IAC 16.2-3.1-8 ("Access and visitation rights") are **waived** to the full extent necessary to be in accord and co-extensive with applicable restrictions and limitations imposed or directed through guidance by the Centers for Medicare & Medicaid Services ("CMS"), the ISDH (including information distributed by ISDH but created by the Centers for Disease Control & Prevention and other government sources), and/or the Governor of Indiana through Executive Order from time to time during the effective period of the Governor's Declaration.

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

5. Each waiver granted herein is effective as of March 6, 2020, and shall expire upon the earliest of (a) expiration or withdrawal 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.

6. 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.

7. 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 26, 2020