Indiana State Department of Health
An Equal Opportunity Employer

Eric J. Holcomb
Governor

Kristina Box, MD, FACOG
State Health Commissioner

EMERGENCY ORDER GRANTING TEMPORARY BLANKET WAIVERS FOR HOME HEALTH AGENCIES *[CORRECTED]*

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 State Health Commissioner hereby **ORDERS** as follows:

The following state requirements and procedures for licensed Indiana home health agencies are **WAIVED**, subject to the specific terms, conditions, and limits set forth below ***(with paragraphs 6 and 15 corrected as noted below)***:

1. 410 IAC 17-9-19 is **waived** with modification to read as follows:

   "Medical plan of care" means written instructions signed by the physician, physician assistant, nurse practitioner, clinical nurse specialist, dentist, chiropractor, podiatrist, or optometrist for the provision of care or treatment to be given by a registered or practical nurse, physical or occupational therapist, speech-language pathologist, social worker, or a home health aide to a patient in the patient's place of residence.

2. The requirement under 410 IAC 17-12-1(h) that "Each employee who will have direct patient contact shall have a physical examination by a physician or nurse practitioner not more than one hundred eighty (180) days before the date that the employee has direct patient contact" is **waived**.

3. The requirement under 410 IAC 17-12-1(i)(6) that "The home health agency must maintain documentation of tuberculosis evaluations showing that any person: (A) working for the home health agency; or (B) having direct patient contact; has had a negative finding on a tuberculosis examination within the previous twelve (12) months" is **waived**.

4. 410 IAC 17-12-2(c) is **waived** with modification to read and require as follows:

   Such case management shall include an initial ~~home visit for~~ assessment of a patient's needs (which may occur remotely or by record review) to determine the type, appropriateness, and adequacy of requested service, and the development of the patient care plan.

5. 410 IAC 17-12-3(a)(1)(B) is waived with modification to read and require as follows:

   The home health agency must … Provide the patient with a written notice of the patient's rights … as part of the initial assessment of the patient's needs before the initiation of treatment.

6. ***[Corrected]*** The requirement under 410 IAC 17-12-3(d) that "The home health agency shall make available to the patient upon request, a written notice in advance of furnishing care to the patient or during the initial evaluation visit before the initiation of treatment, a listing of all individuals or other legal entities who have an ownership or control interest in the agency" is waived.

7. The second sentence of 410 IAC 17-13-1(a) is waived with modification to read and require as follows:

   Medical care shall follow a written medical plan of care established and periodically reviewed by the physician, physician assistant, nurse practitioner, clinical nurse specialist, dentist, chiropractor, optometrist, or podiatrist….

8. 410 IAC 17-13-1(a)(2) is waived with modification to read and require as follows:

   The total medical plan of care shall be reviewed by the attending physician, physician assistant, nurse practitioner, clinical nurse specialist, dentist, chiropractor, optometrist, or podiatrist and home health agency personnel as often as the severity of the patient's condition requires, but at least once every two (2) months. The health care professional staff of the home health agency shall promptly alert the person responsible for the medical component of the patient's care to any changes that suggest a need to alter the medical plan of care. A written summary report for each patient shall be sent to the physician, physician assistant, nurse practitioner, clinical nurse specialist, dentist, chiropractor, optometrist, or podiatrist at least every two (2) months.

9. 410 IAC 17-13-1(b) is waived with modification to read and require as follows:

   A home health agency may accept written orders for home health services from a physician, a physician assistant, a nurse practitioner, a clinical nurse specialist, a dentist, a chiropractor, a podiatrist, or an optometrist licensed in Indiana or in any other state. If the home health agency receives an order from a physician, physician assistant, nurse practitioner, clinical nurse specialist, dentist, chiropractor, podiatrist, or optometrist who is licensed in another state, the home health agency shall take reasonable immediate steps to determine the following…

10. The first sentence of 410 IAC 17-13-1(c) is **waived** with modification to read and require as follows:

    All orders for home health services issued by a physician, a physician assistant, a nurse practitioner, a clinical nurse specialist, a dentist, a chiropractor, a podiatrist, or an optometrist must meet the same requirements, whether the order originates in Indiana or another state.

11. The requirement under 410 IAC 17-13-2(b)(7) that "The nursing plan of care must contain ... Supervisory visits..." is **waived** with modification to read and require as follows:

    The nursing plan of care must contain ... Supervisory visits (which may occur through telehealth if clinically appropriate)...

12. 410 IAC 17-14-1(a)(1)(H) and (I) are **waived** with modification to read and require as follows:

    (H) Accept and carry out physician, physician assistant, nurse practitioner, clinical nurse specialist, chiropractor, podiatrist, dentist, and optometrist orders (oral and written).

    (I) Assist the physician, physician assistant, nurse practitioner, clinical nurse specialist, chiropractor, podiatrist, dentist, or optometrist in evaluating level of function.

13. 410 IAC 17-14-1(a)(2)(F) and (G) are **waived** with modification to read and require as follows:

    (F) Accept and carry out physician, physician assistant, nurse practitioner, clinical nurse specialist, dentist, chiropractor, podiatrist, or optometrist orders (oral and written).

    (G) Inform the physician, physician assistant, nurse practitioner, clinical nurse specialist, dentist, chiropractor, podiatrist, or optometrist of changes in the patient's condition and needs after consulting with the supervising registered nurse.

14. 410 IAC 17-14-1(c)(3) is **waived** with modification to read and require as follows:

    (3) Assist the physician, physician assistant, nurse practitioner, clinical nurse specialist, chiropractor, podiatrist, dentist, or optometrist in evaluating level of function.

15. ***[Corrected]*** The requirement under 410 17-14-1(h) that "Such [home health aide] continuing education shall total at least twelve (12) hours from January 1 through

December 31, inclusive, with a minimum of eight (8) hours in any eight (8) of the following subject areas...." is waived and modified to read and require as follows:

Such continuing education shall, for the year 2020, total at least the equivalent of one (1) hour for each month remaining in the year after expiration or withdrawal of the Governor's Declaration, with at least half of such hours covering the following subject areas....

16. 410 IAC 17-14-1(n) is waived with modification to read and require as follows:

A registered nurse, or therapist in therapy only cases, shall make the initial visit to the patient's residence and make a supervisory visit (which may occur through telehealth if clinically appropriate) at least every sixty (60) days, either when the home health aide is present or absent, to observe the care, to assess relationships, and to determine whether goals are being met.

17. 410 IAC 17-14-1(a)(1)(A) is waived and modified to read and require as follows:

Make the initial evaluation visit (which may occur through telehealth if clinically appropriate).

18. The first sentence of 410 IAC 17-14-1(e) is waived with modification to read and require as follows:

Any social services furnished by the home health agency (which may occur through telehealth if clinically appropriate) shall be provided by a social worker, or a social work assistant under the supervision of a social worker, and in accordance with the medical plan of care.

19. 410 IAC 17-15-1(a)(2) and (4) are waived with modification to read and require as follows:

(2) Name of the physician, physician assistant, nurse practitioner, clinical nurse specialist, dentist, chiropractor, podiatrist, or optometrist.

*** * ***

(4) Signed and dated clinical notes contributed to by all assigned personnel. Clinical notes shall be written within (48) hours and incorporated within thirty (30) days of the time service is rendered.

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

21. 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)

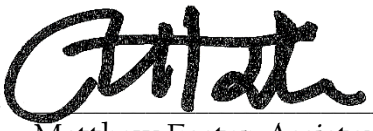
expiration of this Emergency Order under IC 4-21.5-4-5(a)(3), including any extensions thereof, plus such additional time as the ISDH deems necessary to enable an orderly transition by facilities back to compliance with the rules or parts of rules herein waived.

22. 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.

23. 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: April 10, 2020
[Corrected April 14, 2020]