

Who's Providing Care for Nursing Home Residents? Nurse Aide Training Requirements during the Coronavirus Pandemic

Under the federal Nursing Home Reform Law (1987), nurse aides may not work for more than four months unless they are trained in a training program of at least 75 hours and determined to be competent.¹ On March 20, 2020, as part of a long list of waivers and flexibilities granted to nursing facilities, CMS waived the four-month rule, but not the competency requirement.²

Shortly after Centers for Medicare & Medicaid Services (CMS) announced the waivers, the American Health Care Association (AHCA), the trade association of mainly for-profit nursing facilities, reported that it had been advocating for such a waiver. Simultaneously, AHCA announced that it had developed a free eight-hour on-line training course for a “temporary position intended to address the current state of emergency.”³

A number of states now expressly authorize use of AHCA’s temporary nurse aide training program:

- Connecticut: A person who registers, completes, and passes AHCA’s online course can upload the Certificate of Completion to the Department of Public Health’s website to register as a Temporary Nurse Aide in Connecticut.⁴
- Delaware: “An individual that has completed, and received a certificate of completion from, the 8-hour ACHA/NCAL nurse aide training course is hereby authorized to provide direct patient care, so long as any such individual is directly supervised by a certified nursing assistant who holds an active Delaware certification. Any such individual is authorized to provide nondirect patient care under the general supervision of a certified nursing assistant who holds an active Delaware certification.”⁵
- Georgia: The Georgia Department of Community Health approved the eight-hour temporary nurse aide training program developed by AHCA, effective March 20. Facilities must maintain documentation that aides completed the temporary training program. When the state of emergency is lifted, “the Department will allow a period of time for temporary nurse aides to complete any additional training necessary for them to pass the required Georgia Certified Nurse Aide Competency Test administered by Pearson VUE and to enroll in the Georgia Nurse Aide Registry.”⁶
- Illinois: AHCA’s eight-hour training program may satisfy Illinois’ eight-hour classroom component of training, but temporary nurse aides must also have an additional eight hours of on-the-job training, “which may include job shadowing and mentoring.”⁷ Training instructors must ensure that temporary nursing assistant (TNA) students are competent to perform skills on the clinical skills checklist. Supervising nurses “must be informed of the skills that each temporary nursing assistant is allowed to perform.”

“TNAs are not eligible to take the Certified Nursing Assistant competency exam and will not be employed as an aide after the pandemic emergency.”

- Indiana: The state allows nursing facilities to use “trained-but-not-yet tested certified nurse aides for eight months (instead of four months),⁸ approves AHCA’s Temporary Nurse Aide Program,⁹ allows facilities “to train and utilize temporary personal care attendants (“PCAs”) to perform lower-level, non-clinical duties,”¹⁰ and allows minor age 16 and 17 “to be eligible for training and work as Personal Care Attendants (“PCAs”).¹¹
- Iowa: An Executive Order (April 10) allows a person who has received training other than the state’s 75 hour training program and who demonstrates competency “in skills and techniques necessary to care for residents’ needs” to provide direct care to residents.¹² The Department of Inspections Appeals confirms in Frequently asked questions that it accepts the AHCA training program.¹³
- Kansas: The Kansas Department for Aging and Disability Services explicitly authorizes use of AHCA’s eight-hour training program and the associated skills competency checklist.¹⁴ When the emergency is lifted, “temporary aides must complete the required Kansas 90-hour Certified Nurse Aide (CNA) course and pass the state exam to become certified as a Kansas CNA.”

Other states authorize other types of waivers of nurse aide training requirements:

- Florida: “The Agency for Health Care Administration (AHCA) has created new temporary Personal Care Attendant program to help long-term care facilities fill staffing shortages. The program provides an 8-hour training on assisting with direct care so that personal care attendants can temporarily perform additional duties.”¹⁵ On March 26, the Florida Health Care Association proposed an eight-hour training program (five-hour classroom and three-hour simulation/competency check-off) for a personal care attendant “to perform resident care procedures currently delivered by a Certified Nursing Assistant.” On March 28, the Deputy Secretary of the Florida Agency for Healthcare Administration approved the program, effective March 28-May 1, 2020 “or until such time the Agency finds it necessary to extend or discontinue the program to meet the needs of this crisis.”¹⁶

Other states recognize that CMS has waived the 75-hour training requirements but impose different requirements:

- California: A nurse assistant who is enrolled in an approved certification training program “may continue to be employed throughout the declared emergency . . . but is encouraged to complete the program as training programs resume.”¹⁷
- Colorado: During the Emergency, Colorado waives the nurse aide training requirements, but not the competency requirement.¹⁸ Facilities may use “uncertified staff” to perform “direct health care tasks.” Colorado recommends that facilities use separate staffing

teams for COVID-19 positive residents and other residents as well as consistent assignment of staff to residents.

On <https://educate.ahcancal.org/tna>, the American Health Care Association identifies additional states as allowing ACHA's eight-hour training course. The Center was unable to find information about those states.

Questions and Discussion

With staff infected by COVID-19 and unable to work, new staff members are undoubtedly needed. But there are many questions about these workers that need answers.

How prevalent is the use of these temporary aides? Is CMS tracking who they are, how many there are, which facilities they are working in, what tasks they are performing and how well?

What happens to temporary aides after the pandemic ends? Some states answer the question, but most are silent.

- Will they be fired?
 - Illinois prohibits temporary nurse aides from taking the certified nurse assistant competency exam and says they “will not be employed as an aide after the pandemic emergency.”
- Will they be grandfathered in as permanent certified nurse assistants?
 - Pennsylvania providers asked for waiver of nurse aide training and competency evaluation requirements for staff who “worked in this capacity for at least one month during the emergency” and for waiver of the training requirement for workers who worked less than one month during the emergency.¹⁹
- Will they be required to take the state's mandated nurse aide training course and pass the state's competency evaluation test?
 - Georgia will allow a period of time, after the emergency is lifted, for temporary aides to complete additional training and pass the state competency test.
 - Kansas will require temporary aides to complete the state's 90-hour training course and to pass the state exam to be certified as a CNA.

Conclusion

When nurse aides provide most of the direct care to residents, the qualifications of nurse aides and other staff members providing care to residents are critically important. The country cannot return to the time before the 1987 Nursing Home Reform Law when half the states did not require that aides get training and demonstrate competency before providing care to residents.

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¹ 42 U.S.C. §§1395i-3(b)(5), 1396r(b)(5), Medicare and Medicaid, respectively; 42 C.F.R. §§483.35(d)(1)(i), (ii), 483.35(c).

² CMS, “Long Term Care Facilities (Skilled Nursing Facilities and/or Nursing Facilities): CMS Flexibilities to Fight COVID-19” (Mar. 28, 2020), <https://www.cms.gov/files/document/covid-long-term-care-facilities.pdf>.

³ AHCA, Temporary Nurse Aide Training & Competency Checklist, <https://educate.ahcancal.org/products/temporary-nurse-aide>.

⁴ <https://portal.ct.gov/DPH/Facility-Licensing--Investigations/Facility-Licensing--Investigations-Section-FLIS/NEW---Temporary-Nurse-Aide-Certification>.

⁵ Division of Public Health and Delaware Emergency Management Agency Orders and Waivers and Centers for Medicare and Medicaid Services Blanket Waivers Long Term Care Facilities, https://coronavirus.delaware.gov/wp-content/uploads/sites/177/2020/04/Healthcare-Waivers-4_9_2020.pdf.

⁶ Georgia Department of Community Health, “Healthcare Facility Regulation Division COVID-19 Information; Partnership with GHCA on Nurse Aide Training,” with links to the COVID-19 Temporary Nurse Aide Training Program (effective Mar. 20, 2020), <https://dch.georgia.gov/healthcare-facility-regulation-division-covid-19-information>.

⁷ Illinois Department of Public Health Temporary Nursing Assistant (TNA) Training Program, <https://www.ihca.com/Files/COMM-COVID-19/TNA%20Training%20Program%20Instructions.pdf>.

See also Illinois Register, Illinois Department of Public Health, Title 77, Part 395, 395.2 COVID-19 Emergency Provisions for Nursing Assistants, https://mcusercontent.com/3ddc8c8b0fc906085bccd2679/files/612899d0-5fb5-4fb8-9b49-a113fed9bbde/77_395RD_E.pdf (Notice of Emergency Amendment).

⁸ Indiana State Department of Health, “Second Emergency Order Granting Temporary Blanket Waivers for Comprehensive Care Facilities” (Mar. 21, 2020, effective Mar. 6, 2020),

<https://www.coronavirus.in.gov/files/D%20-%20CCF%20Waiver%20Order%20%2020200321%20Final%20Signed.docx.pdf>,

<https://www.coronavirus.in.gov/2499.htm>.

⁹ Indiana State Department of Health, “Sixth Emergency Order Granting Temporary Blanket Waivers for Comprehensive Care Facilities” (issued Apr. 18, 2020, effective Mar. 6, 2020),

<https://www.coronavirus.in.gov/files/AA%20-%20CCF%20Waiver%20Order%20%2020200418%20Temp%20NAs%20Fjnal%20Signed.pdf>,

<https://www.coronavirus.in.gov/2499.htm>.

¹⁰ Indiana State Department of Health, “Emergency Order Authorizing Temporary Personal Care Attendant Positions and Training for Nursing Homes” (Mar. 21, effective Mar. 6, 2020),

<https://www.coronavirus.in.gov/files/B%20-%20CCF%20PCA%20Order%20Full%20Signed.pdf>,

<https://www.coronavirus.in.gov/2499.htm>.

¹¹ Indiana State Department of Health, “Amendment of Emergency Order Authorizing Temporary Personal Care Attendant Positions and Training for Nursing Homes” (Apr. 2, 2020, effective Mar. 16-May 1, 2020),

[https://www.coronavirus.in.gov/files/S%20-%20CCF%20PCA%20Order%20Amendment%20\(LTCN\)%20\(002\).pdf](https://www.coronavirus.in.gov/files/S%20-%20CCF%20PCA%20Order%20Amendment%20(LTCN)%20(002).pdf), <https://www.coronavirus.in.gov/2499.htm>.

¹² Iowa Governor, Proclamation of Emergency (Apr. 10, 2020),

<https://governor.iowa.gov/sites/default/files/documents/Public%20Health%20Proclamation%20-%202020.04.10%20%282%29.pdf>.

¹³ Iowa Department of Inspections and Appeals, COVID-19, Frequently Asked Questions for Health Facilities, p. 9, Question CNA4 (updated Jun .1, 2020), <https://dia.iowa.gov/sites/default/files/documents/2020/06/dia-hfd-covid-19-faqs.pdf>.

¹⁴ Kansas Department for Aging and Disability Services, “COVID-19 Temporary Nurse Aide Training Program” (effective Apr. 17, 2020), <https://www.coronavirus.kdheks.gov/DocumentCenter/View/968/Temporary-Aide-Guidance--PDF---4-17-2020>.

¹⁵ The State of Florida Issues COVID-19 Updates (Apr. 19, 2020), www.floridahealth.gov/newsroom/2020/04/042020-1845-covid19.pr.html.

¹⁶ Correspondence on FHCA website, https://www.fhca.org/images/uploads/pdf/Personal_Care_Attendant.pdf.

¹⁷ California Department of Public Health, “Suspension of Professional Certification Requirements for Certified Nurse Assistants (CNAs),” AFL 20-35 (Apr. 5, 2020), All Facilities Letter,

<https://www.cdph.ca.gov/Programs/CHCO/LCP/Pages/AFL-20-35.aspx> (waiving specified statutory and regulatory

requirements, including training requirements for initial certification, at HSC section 1337.5(b)(2)-(3)); California Department of Public Health, “Suspension of Specified Regulatory Requirements for Nurse Assistant Training Programs (NATPs),” AFL 20-40 (Apr. 14, 2020), <https://www.cdph.ca.gov/Programs/CHCQ/LCP/Pages/AFL-20-40.aspx>

¹⁸ Colorado Department of Health Care Policy & Financing, “Certified Nursing Assistant, Nursing Facilities, Training Requirements, COVID-19, Coronavirus,” Operational memo number: HCPF OM 20-038 (Apr. 8, 2020, effective Mar. 1, 2020), <https://www.colorado.gov/pacific/sites/default/files/HCPF%20OM%2020-038%20Temporary%20Training%20and%20Certification%20of%20Nurse%20Aides%20%281%29.pdf>.

¹⁹ June 8, 2020 letter to Secretary of the Pennsylvania Department of Education from LeadingAgePA, Healthcare Council of Western Pennsylvania, Pennsylvania Health Care Association, and Pennsylvania Coalition of Affiliated Healthcare & Living Communities, [https://www.leadingagepa.org/Portals/0/Documents/Letter%20to%20Sec.%20Rivera%206-8-2020%20\(02\).pdf?ver=2020-06-08-213637-723](https://www.leadingagepa.org/Portals/0/Documents/Letter%20to%20Sec.%20Rivera%206-8-2020%20(02).pdf?ver=2020-06-08-213637-723).