COVID-19

HEALTH FACILITY WAIVERS

Updated 05/12/20
How to use this waiver document
This document is designed to provide information about federal waivers that currently are available and how to apply for additional federal 1135 waivers if needed. It also lays out the State waivers/exceptions that are automatically in place due to an existing governor’s proclamation, and how apply for other State waivers not listed here. As additional waiver information is revised or updated, it will be added to the document with the date the revision/update is made.

What facility types are eligible for waivers?
The State of Iowa and the Centers for Medicare and Medicaid Services (CMS) have made available several waivers to assist in managing patient or resident needs during the COVID-19 response. The waivers are available for the following facilities:

<table>
<thead>
<tr>
<th>CMS 1135 Waivers</th>
<th>State-Only Waivers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ambulatory Surgical Centers</td>
<td>Adult Day Programs</td>
</tr>
<tr>
<td>Critical Access Hospitals</td>
<td>Assisted Living Programs</td>
</tr>
<tr>
<td>End-Stage Renal Disease Facilities</td>
<td>Assisted Living Programs for People with Dementia</td>
</tr>
<tr>
<td>Home Health Agencies</td>
<td>Critical Access Hospitals</td>
</tr>
<tr>
<td>Hospices</td>
<td>Elder Group Homes</td>
</tr>
<tr>
<td>Hospitals</td>
<td>Hospices</td>
</tr>
<tr>
<td>Intermediate Care Facilities for Individuals with Intellectual Disabilities</td>
<td>Hospitals</td>
</tr>
<tr>
<td>Nursing Facilities</td>
<td>Nursing Facilities</td>
</tr>
<tr>
<td>Psychiatric Residential Treatment Facilities</td>
<td>Psychiatric Medical Institutions for Children</td>
</tr>
<tr>
<td>Rural Health Clinics</td>
<td>Residential Care Facilities</td>
</tr>
<tr>
<td>Skilled Nursing Facilities</td>
<td>Intermediate Care Facilities for Individuals with Intellectual Disabilities</td>
</tr>
<tr>
<td></td>
<td>Skilled Nursing Facilities</td>
</tr>
<tr>
<td></td>
<td>Sub-Acute Mental Health Facilities</td>
</tr>
</tbody>
</table>

How do I request a federal 1135 waiver?
To request an 1135 waiver, sending an email to ROCHISC@cms.hhs.gov and copy hfdwaivers@dia.iowa.gov. If you have questions about these waivers, email CMS directly at 1135waiver@cms.hhs.gov. The Centers for Medicare and Medicaid Services (CMS) issued a list of 1135 blanket waivers for multiple health care providers, retroactive to March 1, 2020, through the end of the federal emergency declaration. (04/07/20)

CMS maintains a Waiver and Flexibility website where their most current waiver information may be found, including provider-specific fact sheets.
How do I request a state waiver?
To submit request for a State-only waiver not listed here (covered by an existing governor’s proclamation), submit an email to hfdwaivers@dia.iowa.gov that includes the following information:

- Name, address, and type of facility;
- Rule(s) for which the waiver/variance is being requested;
- Briefly state why compliance with the rule(s) at would pose an undue hardship; and
- Briefly describe how the variance will not endanger the health, safety, or welfare of any resident or infringe upon the rights of any person. (04/07/20)

Looking for answers to frequently-asked questions about health facilities? Please refer to the FAQ guide on the department’s COVID-19 website.

Contents
Ambulatory Surgery Centers.................................................................................................................. 4
Assisted Living Programs..................................................................................................................... 4
Certified Nursing Assistants ............................................................................................................... 5
Community Mental Health Centers.................................................................................................... 6
End-Stage Renal Dialysis Facilities ................................................................................................... 7
Home Health Agencies....................................................................................................................... 9
Hospices ............................................................................................................................................... 12
Hospitals, Psychiatric Hospitals, and Critical Access Hospitals, including Cancer Centers and Long-Term Care Hospitals ................................................................................................................... 15
Intermediate Care Facilities for Individuals with Intellectual Disabilities........................................ 27
Intermediate Care Facilities for Persons with Mental Illness ............................................................ 31
Long-Term Care Facilities ................................................................................................................. 31
Residential Care Facilities .................................................................................................................. 39
Ambulatory Surgery Centers

1135 BLANKET WAIVERS

- **Medical Staff.** 42 CFR 416.45(b). CMS is waiving the requirement at § 416.45(b) that medical staff privileges must be periodically reappraised, and the scope of procedures performed in the ASC must be periodically reviewed. This will allow for physicians whose privileges will expire to continue practicing at the ambulatory surgical center, without the need for reappraisal, and for ASCs to continue operations without performing these administrative tasks during the PHE. This waiver will improve the ability of ASCs to maintain their current workforce during the PHE. (05/04/20)

Assisted Living Programs

1135 BLANKET WAIVERS

There are no 1135 blanket waivers that impact assisted living programs as they are State-certified only. (04/07/20)

STATE OF IOWA WAIVERS

- **Background Checks.** Iowa Administrative Code rule 481—67.19(3) requires an assisted living program to complete a criminal history check prior to employment of an individual in a program. This regulatory provision is suspended to the extent that a program may employ an individual once that criminal history check is submitted, pending completion. The Department of Inspections and Appeals (DIA) suggests that facilities utilize a third-party vendor to conduct a comprehensive preliminary background check and provisionally employ the applicant pending completion of the required record checks through the single contact repository and evaluation by the Iowa Department of Human Services. (04/07/20)

- **Fines.** Fines for assisted living programs required by Iowa Administrative Code rule 67.17 are waived to the extent that such fines may be issued in suspension. (04/07/20)

- **Updating Service Plans.** Iowa Code § 231C.3(1)(c) and Iowa Administrative Code rule 481—69.22(2), requiring an assisted living program to update a tenant’s service plan within 30 days of occupancy, is suspended. (04/07/20)

- **Information after Exit Conference.** Iowa Code § 231C.8(1) and Iowa Administrative Code rule 481—67.13(1), requiring an assisted living program to submit any additional or rebuttal information to DIA within two working days of an exit interview at the conclusion of a monitoring evaluation or complaint investigation, is suspended. (04/07/20)

- **Medication Administration.** Iowa Administrative Code rule 481—67.5(2), requiring a person administering medications in an assisted living program have, at a minimum, passed a medication manager course and examination, is suspended as of April 15, 2020, the date upon which that rule becomes effective. (04/07/20)
• **Assisted Living Management and Nursing Classes.** Iowa Administrative Code rule 481—69.29(5) and (6), requiring a new program manager and delegating nurse in an assisted living program to complete an assisted living management class and/or an assisted living nursing class within six months of employment, is suspended. (04/07/20)

• **In-Person Visitation in Assisted Living Programs.** Iowa Admin. Code rule 481—67.3(6) is suspended to the extent those provisions permit in-person visits with tenants in an assisted living program. (04/14/20)

• **Chapters 67 and 69 Rulemaking Effective April 15, 2020 (ARC 4976c).** New and revised rules in chapters 67 and 69 originally scheduled for implementation on April 15, 2020, will now be implemented on Sept. 1, 2020. (04/20/20)

### Certified Nursing Assistants

**State of Iowa Waivers**

• **Certified Nurse Aide Training.** Iowa Admin Code rule 481—58.11(1)(i) provides that a nurse aide who has not completed the state-approved 75-hour nurse’s aide program shall be required to participate in a structured on-the-job training program of 20 hours’ duration. This regulatory provision is suspended to the extent that the individual has completed a comparable training course approved by the department of inspections and appeals or has completed at least 20 hours of the state-approved 75-hour nurse’s aide program and the facility has documentation that it has implemented training and supervision measures to ensure the individual’s competency in any tasks performed. (04/14/20)

• **Certified Nurse Aide Training—Licensure in Another State.** Iowa Admin Code rule 481—58.11(1)(k), requiring that certified nurse aides who have received training other than the Iowa state-approved program must pass a challenge examination, is suspended to the extent that the individual is able to demonstrate competency in skills and techniques necessary to care for residents’ needs as required by 42 CFR § 483.35(c) and (d)(1)(i). (04/14/20)

• **Certified Nurse Aide Training—4 Month Employment Limitation.** Iowa Admin Code rule 441—81.13(19)(e)(2)(2) requires that a facility shall not use any person working in the facility as a nurse aide for more than four months unless that person has completed a training and competency evaluation program approved by the department of inspections and appeals. This provision is suspended to the extent that the individual is able to demonstrate competency in skills and techniques necessary to care for residents’ needs as required by 42 CFR § 483.35(c) and (d)(1)(i). (04/14/20)

• **Certified Nurse Aide Training—Nurse Aide Registry.** Iowa Admin Code rule 441—81.16(5)(b)(2)(3) and (5)(c)(5)(2), requiring that the department of inspections and appeals shall remove certified nurse aides from the Iowa Direct Care Workers Registry if they have performed no nursing or nursing-related services for monetary compensation for a period of 24 consecutive months, is suspended to the extent that the individual is able to demonstrate competency in skills.
and techniques necessary to care for residents’ needs as required by 42 CFR § 483.35(c) and (d)(1)(i). (04/14/20)

- **CERTIFIED NURSE AIDE TRAINING—NURSE AIDE TRAINING PROGRAMS.** Iowa Admin Code rule 441—81.16(3), requiring minimum standards for nurse aide training and competency evaluation programs the department of inspections and appeals may approve, is suspended to the extent that the program has been approved by the Centers for Medicare and Medicaid Services. (04/14/20)

### Community Mental Health Centers

#### 1135 BLANKET WAIVERS

- **QUALITY ASSESSMENT AND PERFORMANCE IMPROVEMENT (QAPI).** 42 CFR 485.917(a)-(d) We are modifying the requirements for CMHC’s quality assessment and performance improvement (QAPI). Specifically, we are retaining the overall requirement that CMHC’s maintain an effective, ongoing, CMHC-wide, data-driven QAPI program, while providing flexibility for CMHCs to use their QAPI resources to focus on challenges and opportunities for improvement related to the PHE by waiving the specific detailed requirements for the QAPI program’s organization and content at § 485.917(a)-(d). Waiving the requirements related to the details of the QAPI program’s organization and content will make it easier for CMHCs to reconfigure their QAPI programs, as needed, to adapt to specific needs and circumstances that arise during the PHE. These flexibilities may be implemented so long as they are consistent with a state’s emergency preparedness or pandemic plan. (05/04/20)

- **PROVISION OF SERVICES.** 42 CFR 485.918(b)(1)(iii). We are waiving the specific requirement at § 485.918(b)(1)(iii) that prohibits CMHCs from providing partial hospitalization services and other CMHC services in an individual’s home so that clients can safely shelter in place during the PHE while continuing to receive needed care and services from the CMHC. This waiver is a companion to recent regulatory changes (INSERT IFR CITATION WHEN RELEASED) that clarify how CMHCs should bill for services provided in an individual’s home, and how such services should be documented in the medical record. While this waiver will now allow CMHCs to furnish services in client homes, including through the use of telecommunication technology, CMHCs continue to be, among other things, required to comply with the nonwaived provisions of 42 CFR Part 485, Subpart J, requiring that CMHCs: 1) assess client needs, including physician certification of the need for partial hospitalization services, if needed; 2) implement and update each client’s individualized active treatment plan that sets forth the 25 04/29/2020 type, amount, duration, and frequency of the services; and 3) promote client rights, including a client’s right to file a complaint. (05/04/20)

- **40 PERCENT RULE.** 42 CFR 485.918(b)(1)(v) We are waiving the requirement at § 485.918(b)(1)(v) that a CMHC provides at least 40 percent of its items and services to individuals who are not eligible for Medicare benefits.Waiving the 40 percent requirement will facilitate appropriate timely discharge from inpatient psychiatric units and prevent admissions to these facilities because CMHCs will be able to provide PHP services to Medicare beneficiaries without restrictions
on the proportion of Medicare beneficiaries that they are permitted to treat at a time. This will allow communities greater access to health services, including mental health services. (05/04/20)

End-Stage Renal Dialysis Facilities

1135 BLANKET WAIVERS

- **Training Program and Periodic Audits.** CMS is waiving the requirement at 42 CFR §494.40(a) related to the condition on water and dialysate quality, specifically that on-time periodic audits for operators of the water/dialysate equipment are waived to allow for flexibilities. (04/07/20)

- **Defer Equipment Maintenance and Fire Safety Inspections.** CMS is waiving the requirement at 42 CFR §494.60(b) for on-time preventive maintenance of dialysis machines and ancillary dialysis equipment. Additionally, CMS is also waiving the requirements under §494.60(d) which requires ESRD facilities to conduct on-time fire inspections. These waivers are intended to ensure that dialysis facilities are able to focus on the operations related to the public health emergency. (04/07/20)

- **Emergency Preparedness.** CMS is waiving the requirements at 42 CFR §494.62(d)(1)(iv) which requires ESRD facilities to demonstrate as part of their emergency preparedness training and testing program, that staff can demonstrate that, at a minimum, its patient care staff maintains current CPR certification. CMS is waiving the requirement for maintenance of CPR certification during the COVID-19 emergency due to the limited availability of CPR classes. (04/07/20)

- **Ability to Delay Some Patient Assessments.** CMS is not waiving subsections (a) or (c) of 42 CFR §494.80, but is waiving the following requirements at 42 CFR §494.80(b) related to the frequency of assessments for patients admitted to the dialysis facility. CMS is waiving the “on-time” requirements for the initial and follow-up comprehensive assessments within the specified timeframes as noted below. This waiver applies to assessments conducted by members of the interdisciplinary team, including: registered nurses, physicians treating a patient for ESRD, social workers, and dietitians. These waivers are intended to ensure that dialysis facilities are able to focus on operations related to the national public health emergency. Specifically, CMS waives:
  - §494.80(b)(1): An initial comprehensive assessment must be conducted on all new patients (that is, all admissions to a dialysis facility), within the latter of 30 calendar days or 13 outpatient hemodialysis sessions beginning with the first outpatient dialysis session.
  - §494.80(b)(2): A follow up comprehensive reassessment must occur within 3 months after the completion of the initial assessment to provide information to adjust the patient’s plan of care specified in §494.90. (04/07/20)

- **Time Period for Initiation of Care Planning and Monthly Physician Visits.** CMS is modifying two requirements related to care planning, specifically:
  - 42 CFR §494.90(b)(2): CMS is modifying the requirement that requires the dialysis facility to implement the initial plan of care within the latter of 30 calendar days after admission to the dialysis facility or 13 outpatient hemodialysis sessions beginning with the first outpatient dialysis session. This modification will also apply to the requirement for monthly or annual updates of the plan of care within 15 days of the completion of the additional patient assessments.
- **§494.90(b)(4):** CMS is modifying the requirement that requires the ESRD dialysis facility to ensure that all dialysis patients are seen by a physician, nurse practitioner, clinical nurse specialist, or physician’s assistant providing ESRD care at least monthly, and periodically while the hemodialysis patient is receiving in-facility dialysis. CMS is waiving the requirement for a monthly in-person visit if the patient is considered stable, and also recommends exercising telehealth flexibilities, e.g. phone calls, to ensure patient safety. (04/07/20)

- **Dialysis Home Visits to Assess Adaptation and Home Dialysis Machine Designation.** CMS is waiving the requirement at 42 CFR §494.100(c)(1)(i) which requires the periodic monitoring of the patient’s home adaptation, including visits to the patient’s home by facility personnel. For more information on existing flexibilities for in-center dialysis patients to receive their dialysis treatments in the home, or long-term care facility, reference QSO-20-19-ESRD. (04/07/20)

- **Home Dialysis Machine Designation – Clarification.** The ESRD conditions for coverage (CFCs) do not explicitly require that each home dialysis patient have their own designated home dialysis machine. The dialysis facility is required to follow FDA labeling and manufacturer’s directions for use to ensure appropriate operation of the dialysis machine and ancillary equipment. Dialysis machines must be properly cleaned and disinfected to minimize the risk of infection based on the requirements at 42 CFR §494.30 Condition: Infection Control if used to treat multiple patients. (04/07/20)

- **Special Purpose Renal Dialysis Facilities (SPRDF) Designation Expanded.** CMS authorizes the establishment of SPRDFs under 42 CFR §494.120 to address access to care issues due to COVID-19 and the need to mitigate transmission among this vulnerable population. This will not include the normal determination regarding lack of access to care at §494.120(b) as this standard has been met during the period of the national emergency. Approval as a special purpose renal dialysis facility related to COVID-19 does not require a federal survey prior to providing services. (04/07/20)

- **Dialysis Patient Care Technician (PCT) Certification.** CMS is modifying the requirement at 42 CFR §494.140(e)(4) for dialysis PCTs that requires certification under a state certification program or a national commercially-available certification program within 18 months of being hired as a dialysis PCT for newly-employed patient care technicians. CMS is aware of the challenges that PCTs are facing with the limited availability and closures of testing sites during the time of this crisis. CMS will allow PCTs to continue working even if they have not achieved certification within 18 months or have not met on time renewals. (04/07/20)

- **Transferability of Physician Credentialing.** CMS is modifying the requirement at 42 CFR §494.180(c)(1) which requires that all medical staff appointments and credentialing are in accordance with state law, including attending physicians, physician assistants, nurse practitioners, and clinical nurse specialists. These waivers will allow physicians who are appropriately credentialed at a certified dialysis facility to function to the fullest extent of their licensure to provide care at designated isolation locations without separate credentialing at that facility, and may be implemented so long as they are not inconsistent with a state’s emergency preparedness or pandemic plan. (04/07/20)
• **EXPANDING AVAILABILITY OF ESRD TO NURSING HOME RESIDENTS.** CMS is waiving the following requirements related to nursing home residents:
  
  o **FURNISHING DIALYSIS SERVICES ON THE MAIN PREMISES:** ESRD requirements at 42 CFR §494.180(d) require dialysis facilities to provide services directly on its main premises or on other premises that are contiguous with the main premises. CMS is waiving this requirement to allow dialysis facilities to provide service to its patients who reside in the nursing homes, long-term care facilities, assisted living facilities and similar types of facilities, as licensed by the state (if applicable). CMS continues to require that services provided to these patients or residents are under the direction of the same governing body and professional staff as the resident’s usual Medicare-certified dialysis facility. Further, in order to ensure that care is safe, effective and is provided by trained and qualified personnel, CMS requires that the dialysis facility staff: 1) furnish all dialysis care and services; 2) provide all equipment and supplies necessary; 3) maintain equipment and supplies in off-premises location; 4) and complete all equipment maintenance, cleaning and disinfection using appropriate infection control procedures and manufacturer’s instructions for use. (05/12/20)

  o **CLARIFICATION FOR BILLING PROCEDURES.** Typically, ESRD beneficiaries are transported from a SNF/NF to an ESRD facility to receive renal dialysis services. In an effort to keep patients in their SNF/NF and decrease their risk of being exposed to COVID-19, ESRD facilities may temporarily furnish renal dialysis services to ESRD beneficiaries in the SNF/NF instead of the offsite ESRD facility. The in-center dialysis center should bill Medicare using Condition Code 71 (Full care unit. Billing for a patient who received staff-assisted dialysis services in a hospital or renal dialysis facility). The in-center dialysis center should also apply condition code DR to claims if all the treatments billed on the claim meet this condition or modifier CR on the line level to identify individual treatments meeting this condition. The ESRD provider would need to have their trained personnel administer the treatment in the SNF/NF. In addition, the provider must follow the CFCs. In particular, under the CFCs is the requirement that to use a dialysis machine, the FDA-approved labeling must be adhered to § 494.100 and it must be maintained and operated in accordance with the manufacturer’s recommendations (§ 494.60) and follow infection-control requirements at § 494.30. (04/07/20)

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**Home Health Agencies**

**1135 BLANKET WAIVERS**

• **REQUESTS FOR ANTICIPATED PAYMENT (RAP).** CMS is allowing Medicare administrative contractors (MACs) to extend the auto-cancellation date of requests for anticipated payment (RAPs) during emergencies. (04/07/20)

• **REPORTING.** CMS is providing relief to HHAs on the timeframes related to OASIS transmission through the following actions below:
  
  o Extending the five-day completion requirement for the comprehensive assessment to 30 days.
Waiving the 30-day OASIS submission requirement. Delayed submission is permitted during the public health emergency. (04/07/20)

**Initial Assessments.** CMS is waiving the requirements at 42 CFR §484.55(a) to allow HHAs to perform Medicare-covered initial assessments and determine patients’ homebound status remotely or by record review. This will allow patients to be cared for in the best environment for them while supporting infection control and reducing impact on acute care and long-term care facilities. This will allow for maximizing coverage by already scarce physician and advanced-practice clinicians and allow those clinicians to focus on caring for patients with the greatest acuity. (04/07/20)

**Onsite Visits for HHA Aide Supervision.** CMS is waiving the requirements at 42 CFR §484.80(h), which require a nurse to conduct an onsite visit every two weeks. This would include waiving the requirements for a nurse or other professional to conduct an onsite visit every two weeks to evaluate if aides are providing care consistent with the care plan, as this may not be physically possible for a period of time. This waiver is also temporarily suspending the two-week aide supervision by a registered nurse for home health agencies requirement at §484.80(h)(1), but virtual supervision is encouraged during the period of the waiver. (04/07/20)

**Allow Occupational Therapists (OTs) to Perform Initial and Comprehensive Assessment for All Patients.** 42 CFR 484.55(a)(2) and 484.55(b)(3). CMS is waiving the requirement that OTs may only perform the initial and comprehensive assessment if occupational therapy is the service that establishes eligibility for the patient to be receiving home health care. This temporary blanket modification allows OTs to perform the initial and comprehensive assessment for all patients receiving therapy services as part of the plan of care, to the extent permitted under state law, regardless of whether occupational therapy is the service that establishes eligibility. The existing regulations at § 484.55(a) and (b)(2) would continue to apply that OTs and other therapists would not be permitted to perform assessments in nursing only cases. We would continue to expect HHAs to match the appropriate discipline that performs the assessment to the needs of the patient to the greatest extent possible. Therapists must act within their state scope of practice laws when performing initial and comprehensive assessments, and access a registered nurse or other professional to complete sections of the assessment that are beyond their scope of practice. Expanding the category of therapists who may perform initial and comprehensive assessments to include OTs provides HHAs with additional flexibility that may decrease patient wait times for the initiation of home health services. (04/30/20)

**12-Hour Annual In-Service Training Requirement for Home Health Aides.** CMS is modifying the requirement at 42 C.F.R. §484.80(d) that home health agencies must assure that each home health aide receives 12 hours of in-service training in a 12-month period. In accordance with section 1135(b)(5) of the Act, we are postponing the deadline for completing this requirement throughout the COVID-19 PHE until the end of the first full 17 04/29/2020 quarter after the declaration of the PHE concludes. This will allow aides and the registered nurses (RNs) who teach in-service training to spend more time delivering direct patient care and additional time for staff to complete this requirement. (05/04/20)
• **Detailed Information Sharing for Discharge Planning for Home Health Agencies.** CMS is waiving the requirements of 42 CFR §484.58(a) to provide detailed information regarding discharge planning, to patients and their caregivers, or the patient’s representative in selecting a post-acute care provider by using and sharing data that includes, but is not limited to, (another) home health agency (HHA), skilled nursing facility (SNF), inpatient rehabilitation facility (IRF), and long-term care hospital (LTCH) quality measures and resource use measures. This temporary waiver provides facilities the ability to expedite discharge and movement of residents among care settings. CMS is maintaining all other discharge planning requirements. (05/04/20)

• **Clinical Records.** In accordance with section 1135(b)(5) of the Act, CMS is extending the deadline for completion of the requirement at 42 CFR §484.110(e), which requires HHAs to provide a patient a copy of their medical record at no cost during the next visit or within four business days (when requested by the patient). Specifically, CMS will allow HHAs ten business days to provide a patient’s clinical record, instead of four. (05/04/20)

• **Training and Assessment of Aides.** CMS is waiving the requirement at 42 CFR §418.76(h)(2) for Hospice and 42 CFR §484.80(h)(1)(iii) for HHAs, which require a registered nurse, or in the case of an HHA a registered nurse or other appropriate skilled professional (physical therapist/occupational therapist, speech language pathologist) to make an annual onsite supervisory visit (direct observation) for each aide that provides services on behalf of the agency. In accordance with section 1135(b)(5) of the Act, we are postponing completion of these visits. All postponed onsite assessments must be completed by these professionals no later than 60 days after the expiration of the PHE. (05/04/20)

• **Quality Assurance and Performance Improvement (QAPI).** CMS is modifying the requirement at 42 CFR §418.58 for Hospice and §484.65 for HHAs, which requires these providers to develop, implement, evaluate, and maintain an effective, ongoing, hospice/HHA-wide, data-driven QAPI program. Specifically, CMS is modifying the requirements at §418.58(a)–(d) and §484.65(a)–(d) to narrow the scope of the QAPI program to concentrate on infection control issues, while retaining the requirement that remaining activities should continue to focus on adverse events. This modification decreases burden associated with the development and maintenance of a broad-based QAPI program, allowing the providers to focus efforts on aspects of care delivery most closely associated with COVID-19 and tracking adverse 18 04/29/2020 events during the PHE. The requirement that HHAs and hospices maintain an effective, ongoing, agency-wide, data-driven quality assessment and performance improvement program will remain. (05/04/20)

• **Allow Occupational Therapists (OTs), Physical Therapists (PTs), and Speech Language Pathologists (SLPs) to Perform Initial and Comprehensive Assessment for All Patients.** CMS is waiving the requirements in 42 CFR §484.55(a)(2) and §484.55(b)(3) that rehabilitation skilled professionals may only perform the initial and comprehensive assessment when only therapy services are ordered. This temporary blanket modification allows any rehabilitation professional (OT, PT, or SLP) to perform the initial and comprehensive assessment for all patients receiving therapy services as part of the plan of care, to the extent permitted under state law, regardless of whether or not the service establishes eligibility for the patient to be receiving home care. The existing regulations at §484.55(a) and (b)(2) would continue to apply; rehabilitation skilled professionals would not be permitted to perform assessments in nursing-only cases. We would
continue to expect HHAs to match the appropriate discipline that performs the assessment to the needs of the patient to the greatest extent possible. Therapists must act within their state scope of practice laws when performing initial and comprehensive assessments, and access a registered nurse or other professional to complete sections of the assessment that are beyond their scope of practice. Expanding the category of therapists who may perform initial and comprehensive assessments provides HHAs with additional flexibility that may decrease patient wait times for the initiation of home health services. (05/12/20)

Hospices

1135 BLANKET WAIVERS

- **Requirement for Hospices to Use Volunteers.** CMS is waiving the requirement at 42 CFR §418.78(e) that hospices are required to use volunteers (including at least 5% of patient care hours). It is anticipated that hospice volunteer availability and use will be reduced related to COVID-19 surge and potential quarantine. (04/07/20)

- **Comprehensive Assessments.** CMS is waiving certain requirements at 42 CFR §418.54 related to updating comprehensive assessments of patients. This waiver applies the timeframes for updates to the comprehensive assessment found at §418.54(d). Hospices must continue to complete the required assessments and updates, however, the timeframes for updating the assessment may be extended from 15 to 21 days. (04/07/20)

- **Non-Core Services.** CMS is waiving the requirement for hospices to provide certain non-core hospice services during the national emergency, including the requirements at 42 CFR §418.72 for physical therapy, occupational therapy, and speech-language pathology. (04/07/20)

- **Onsite Visits for Hospice Aide Supervision.** CMS is waiving the requirements at 42 CFR §418.76(h), which require a nurse to conduct an onsite supervisory visit every two weeks. This would include waiving the requirements for a nurse or other professional to conduct an onsite visit every two weeks to evaluate if aides are providing care consistent with the care plan, as this may not be physically possible for a period of time. (04/07/20)

- **Hospice Aide Competency Testing Allow Use of Pseudo Patients.** Hospice aide competency testing allow use of pseudo patients. 42 C.F.R. 418.76(c)(1). CMS is temporarily modifying the requirement in § 418.76(c)(1) that a hospice aide must be evaluated by observing an aide’s performance of certain tasks with a patient. This modification allows hospices to utilize pseudo patients such as a person trained to participate in a role-play situation or a computer-based mannequin device, instead of actual patients, in the competency testing of hospice aides for those tasks that must be observed being performed on a patient. This increases the speed of performing competency testing and allows new aides to begin serving patients more quickly without affecting patient health and safety during the public health emergency (PHE). (04/14/20)

- **12-Hour Annual In-Service Training Requirement for Hospice Aides.** 42 C.F.R. 418.76(d). CMS is waiving the requirement that hospices must assure that each hospice aide receives 12 hours of in-service training in a 12-month period. This allows aides and the registered nurses (RNs) who teach in-service training to spend more time delivering direct patient care. (04/14/20)
- **TRAINING AND ASSESSMENT OF AIDES.** CMS is waiving the requirement at 42 CFR §418.76(h)(2) for Hospice and 42 CFR §484.80(h)(1)(iii) for HHAs, which require a registered nurse, or in the case of an HHA a registered nurse or other appropriate skilled professional (physical therapist/occupational therapist, speech language pathologist) to make an annual onsite supervisory visit (direct observation) for each aide that provides services on behalf of the agency. In accordance with section 1135(b)(5) of the Act, we are postponing completion of these visits. All postponed onsite assessments must be completed by these professionals no later than 60 days after the expiration of the PHE. (05/04/20)

- **QUALITY ASSURANCE AND PERFORMANCE IMPROVEMENT (QAPI).** CMS is modifying the requirement at 42 CFR §418.58 for Hospice and §484.65 for HHAs, which requires these providers to develop, implement, evaluate, and maintain an effective, ongoing, hospice/HHA-wide, data-driven QAPI program. Specifically, CMS is modifying the requirements at §418.58(a)–(d) and §484.65(a)–(d) to narrow the scope of the QAPI program to concentrate on infection control issues, while retaining the requirement that remaining activities should continue to focus on adverse events. This modification decreases burden associated with the development and maintenance of a broad-based QAPI program, allowing the providers to focus efforts on aspects of care delivery most closely associated with COVID-19 and tracking adverse events. The requirement that HHAs and hospices maintain an effective, ongoing, agency-wide, data-driven quality assessment and performance improvement program will remain. (05/04/20)

- **ANNUAL TRAINING.** CMS is modifying the requirement at 42 CFR §418.100(g)(3), which requires hospices to annually assess the skills and competence of all 19 04/29/2020 individuals furnishing care and provide in-service training and education programs where required. Pursuant to section 1135(b)(5) of the Act, we are postponing the deadline for completing this requirement throughout the COVID-19 PHE until the end of the first full quarter after the declaration of the PHE concludes. This does not alter the minimum personnel requirements at 42 CFR §418.114. Selected hospice staff must complete training and have their competency evaluated in accordance with unwaived provisions of 42 CFR Part 418. (05/04/20)

- **INSPECTION, TESTING & MAINTENANCE (ITM) UNDER THE PHYSICAL ENVIRONMENT CONDITIONS OF PARTICIPATION:** CMS is waiving certain physical environment requirements for Hospitals, CAHs, inpatient hospice, ICF/IIDs, and SNFs/NFs to reduce disruption of patient care and potential exposure/transmission of COVID-19. The physical environment regulations require that facilities and equipment be maintained to ensure an acceptable level of safety and quality. CMS will permit facilities to adjust scheduled inspection, testing and maintenance (ITM) frequencies and activities for facility and medical equipment.
  - 42 CFR §482.41(d) for hospitals, §485.623(b) for CAH, §418.110(c)(2)(iv) for inpatient hospice, §483.470(j) for ICF/IID; and §483.90 for SNFs/NFs all require these facilities and their equipment to be maintained to ensure an acceptable level of safety and quality. CMS is temporarily modifying these requirements to the extent necessary to permit these facilities to adjust scheduled inspection, testing and maintenance (ITM) frequencies and activities for facility and medical equipment.
  - 42 CFR §482.41(b)(1)(i) and (c) for hospitals, §485.623(c)(1)(i) and (d) for CAHs, §482.41(d)(1)(i) and (e) for inpatient hospices, §483.470(j)(1)(i) and (5)(v) for ICF/IIDs,
and §483.90(a)(1)(i) and (b) for SNFs/NFs require these facilities to be in compliance with the Life Safety Code (LSC) and Health Care Facilities Code (HCFC). CMS is temporarily modifying these provisions to the extent necessary to permit these facilities to adjust scheduled ITM frequencies and activities required by the LSC and HCFC. The following LSC and HCFC ITM are considered critical are not included in this waiver:

- Sprinkler system monthly electric motor-driven and weekly diesel engine driven fire pump testing.
- Portable fire extinguisher monthly inspection.
- Elevators with firefighters’ emergency operations monthly testing.
- Emergency generator 30 continuous minute monthly testing and associated transfer switch monthly testing.
- Means of egress daily inspection in areas that have undergone construction, repair, alterations or additions to ensure its ability to be used instantly in case of emergency.

- Specific Life Safety Code (LSC) for multiple providers – Waiver Information. CMS is waiving and modifying particular waivers under 42 CFR §482.41(b) for hospitals; §485.623(c) for CAHs; §418.110(d) for inpatient hospice; §483.470(j) for ICF/IIDs and §483.90(a) for SNF/NFs. Specifically, CMS is modifying these requirements as follows:
  - Alcohol-based Hand-Rub (ABHR) Dispensers: We are waiving the prescriptive requirements for the placement of alcohol based hand rub (ABHR) dispensers for use by staff and others due to the need for the increased use of ABHR in infection control. However, ABHRs contain ethyl alcohol, which is considered a flammable liquid, and there are restrictions on the storage and location of the containers. This includes restricting access by certain patient/resident population to prevent accidental ingestion. Due to the increased fire risk for bulk containers (over five gallons) those will still need to be stored in a protected hazardous materials area. Refer to: 2012 LSC, sections 18/19.3.2.6. In addition, facilities should continue to protect ABHR dispensers against inappropriate use as required by 42 CFR §482.41(b)(7) for hospitals; §485.623(c)(5) for CAHs; §418.110(d)(4) for inpatient hospice; §483.470(j)(5)(ii) for ICF/IIDs and §483.90(a)(4) for SNF/NFs.
  - Fire Drills: Due to the inadvisability of quarterly fire drills that move and mass staff together, we will instead permit a documented orientation training program related to the current fire plan, which considers current facility conditions. The training will instruct employees, including existing, new or temporary employees, on their current duties, life safety procedures and the fire protection devices in their assigned area. Refer to: 2012 LSC, sections 18/19.7.1.6. (05/12/20)
Hospitals, Psychiatric Hospitals, and Critical Access Hospitals, including Cancer Centers and Long-Term Care Hospitals

1135 BLANKET WAIVERS

- **Emergency Medical Treatment and Labor Act (EMTALA).** CMS is waiving the enforcement of section 1867(a) of the Act. This will allow hospitals, psychiatric hospitals, and critical access hospitals (CAHs) to screen patients at a location offsite from the hospital’s campus to prevent the spread of COVID-19, so long as it is not inconsistent with a state’s emergency preparedness or pandemic plan. (04/14/20)

- **Verbal Orders.** CMS is waiving the requirements of 42 CFR §482.23, §482.24 and §485.635(d)(3) to provide additional flexibility related to verbal orders where read-back verification is required, but authentication may occur later than 48 hours. This will allow more efficient treatment of patients in surge situations. Specifically, the following requirements are waived:
  - §482.23(c)(3)(i) – If verbal orders are used for the use of drugs and biologicals (except immunizations), they are to be used infrequently.
  - §482.24(c)(2) – All orders, including verbal orders, must be dated, timed, and authenticated promptly by the ordering practitioner or by another practitioner who is responsible for the care of the patient.
  - §482.24(c)(3) – Hospitals may use pre-printed and electronic standing orders, order sets, and protocols for patient orders. This would include all subparts at §482.24(c)(3).
  - §485.635(d)(3) – Although the regulation requires that medication administration be based on a written, signed order, this does not preclude the CAH from using verbal orders. A practitioner responsible for the care of the patient must authenticate the order in writing as soon as possible after the fact. (04/14/20)

- **Reporting Requirements.** CMS is waiving the requirements at 42 CFR §482.13(g) (1)(i)-(ii), which require that hospitals report patients in an intensive care unit whose death is caused by their disease, but who required soft wrist restraints to prevent pulling tubes/IVs, no later than the close of business on the next business day. Due to current hospital surge, CMS is waiving this requirement to ensure that hospitals are focusing on increased patient care demands and increased patient census, provided any death where the restraint may have contributed is still reported within standard time limits (i.e., close of business on the next business day following knowledge of the patient’s death). (04/14/20)

- **Patient Rights.** CMS is waiving requirements under 42 CFR §482.13 only for hospitals that are considered to be impacted by a widespread outbreak of COVID-19. Hospitals that are located in a state which has widespread confirmed cases (i.e., 51 or more confirmed cases*) as updated on the CDC website, CDC States Reporting Cases of COVID-19, at https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html, would not be required to meet the following requirements:
  - §482.13(d)(2) – With respect to timeframes in providing a copy of a medical record.
- §482.13(h) – Related to patient visitation, including the requirement to have written policies and procedures on visitation of patients who are in COVID-19 isolation and quarantine processes.

- §482.13(e)(1)(ii) – Regarding seclusion. *The waiver flexibility is based on the number of confirmed cases as reported by CDC and will be assessed accordingly when COVID-19 confirmed cases decrease. (04/14/20)

- **Sterile Compounding.** CMS is waiving requirements (also outlined in USP797) at 42 CFR §482.25(b)(1) and §485.635(a)(3) in order to allow used face masks to be removed and retained in the compounding area to be re-donned and reused during the same work shift in the compounding area only. This will conserve scarce face mask supplies. CMS will not review the use and storage of face masks under these requirements. (04/14/20)

- **Detailed Information Sharing For Discharge Planning For Hospitals And CAHs.** CMS is waiving the requirement 42 CFR §482.43(a)(8), §482.61(e), and §485.642(a)(8) to provide detailed information regarding discharge planning, described below:
  - The hospital, psychiatric hospital, and CAH must assist patients, their families, or the patient’s representative in selecting a post-acute care provider by using and sharing data that includes, but is not limited to, home health agency (HHA), skilled nursing facility (SNF), inpatient rehabilitation facility (IRF), and long-term care hospital (LTCH) quality measures and resource use measures. The hospital must ensure that the post-acute care data on quality measures and resource use measures is relevant and applicable to the patient’s goals of care and treatment preferences.
  - CMS is maintaining the discharge planning requirements that ensure a patient is discharged to an appropriate setting with the necessary medical information and goals of care as described in 42 CFR §482.43(a)(1)-(7) and (b). (04/14/20)

- **Limiting Detailed Discharge Planning For Hospitals.** CMS is waiving all the requirements and subparts at 42 CFR §482.43(c) related to post-acute care services so as to expedite the safe discharge and movement of patients among care settings, and to be responsive to fluid situations in various areas of the country. CMS is maintaining the discharge planning requirements that ensure a patient is discharged to an appropriate setting with the necessary medical information and goals of care as described in 42 CFR §482.43(a)(1)-(7) and (b). CMS is waiving the more detailed requirement that hospitals ensure those patients discharged home and referred for HHA services, or transferred to a SNF for post-hospital extended care services, or transferred to an IRF or LTCH for specialized hospital services, must:
  - §482.43(c)(1): Include in the discharge plan a list of HHAs, SNFs, IRFs, or LTCHs that are available to the patient.
  - §482.43(c)(2): Inform the patient or the patient’s representative of their freedom to choose among participating Medicare providers and suppliers of post-discharge services.
  - §482.43(c)(3): Identify in the discharge plan any HHA or SNF to which the patient is referred in which the hospital has a disclosable financial interest, as specified by the Secretary, and any HHA or SNF that has a disclosable financial interest in a hospital under Medicare. (04/14/20)
• **Medical Staff.** CMS is waiving requirements under 42 CFR §482.22(a)(1)-(4) to allow for physicians whose privileges will expire to continue practicing at the hospital and for new physicians to be able to practice before full medical staff/governing body review and approval to address workforce concerns related to COVID-19. CMS is waiving §482.22(a) (1)-(4) regarding details of the credentialing and privileging process. (Please also refer to Practitioner Locations Blanket Waiver listed below.) (04/14/20)

• **Medical Records.** CMS is waiving requirements under 42 CFR §482.24(a) through (c), which cover the subjects of the organization and staffing of the medical records department, requirements for the form and content of the medical record, and record retention requirements, and these flexibilities may be implemented so long as they are not inconsistent with a state’s emergency preparedness or pandemic plan. CMS is waiving §482.24(c)(4)(viii) related to medical records to allow flexibility in completion of medical records within 30 days following discharge from a hospital. This flexibility will allow clinicians to focus on the patient care at the bedside during the pandemic. (04/14/20)

• **Flexibility in Patient Self Determination Act Requirements (Advance Directives).** CMS is waiving the requirements at sections 1902(a)(58) and 1902(w)(1)(A) of the Act (for Medicaid); 1852(j) of the Act (for Medicare Advantage); and 1866(f) of the Act and 42 CFR §489.102 (for Medicare), which require hospitals and CAHs to provide information about their advance directive policies to patients. CMS is waiving this requirement to allow for staff to more efficiently deliver care to a larger number of patients. (04/14/20)

• **Physical Environment.** CMS is waiving certain requirements under the Medicare conditions of participation at 42 CFR §482.41 and §485.623 to allow for flexibilities during hospital, psychiatric hospital, and CAH surges. CMS will permit non-hospital buildings/space to be used for patient care and quarantine sites, provided that the location is approved by the state (see “Physical Environment” under State of Iowa Waivers for instructions), (ensuring that safety and comfort for patients and staff are sufficiently addressed) and so long as it is not inconsistent with a state’s emergency preparedness or pandemic plan. This allows for increased capacity and promotes appropriate cohorting of COVID-19 patients. (04/14/20)

• **Inspection, Testing & Maintenance (ITM) Under the Physical Environment Conditions of Participation:** CMS is waiving certain physical environment requirements for Hospitals, CAHs, inpatient hospice, ICF/IIDs, and SNFs/NFs to reduce disruption of patient care and potential exposure/transmission of COVID-19. The physical environment regulations require that facilities and equipment be maintained to ensure an acceptable level of safety and quality. CMS will permit facilities to adjust scheduled inspection, testing and maintenance (ITM) frequencies and activities for facility and medical equipment.

  o 42 CFR §482.41(d) for hospitals, §485.623(b) for CAH, §418.110(c)(2)(iv) for inpatient hospice, §483.470(j) for ICF/IID; and §483.90 for SNFs/NFs all require these facilities and their equipment to be maintained to ensure an acceptable level of safety and quality. CMS is temporarily modifying these requirements to the extent necessary to permit these facilities to adjust scheduled inspection, testing and maintenance (ITM) frequencies and activities for facility and medical equipment.
42 CFR §482.41(b)(1)(i) and (c) for hospitals, §485.623(c)(1)(i) and (d) for CAHs, §482.41(d)(1)(j) and (e) for inpatient hospices, §483.470(j)(1)(i) and (5)(v) for ICF/IIDs, and §483.90(a)(1)(i) and (b) for SNFs/NFs require these facilities to be in compliance with the Life Safety Code (LSC) and Health Care Facilities Code (HCFC). CMS is temporarily modifying these provisions to the extent necessary to permit these facilities to adjust scheduled ITM frequencies and activities required by the LSC and HCFC. The following LSC and HCFC ITM are considered critical and are not included in this waiver:

- Sprinkler system monthly electric motor-driven and weekly diesel engine driven fire pump testing.
- Portable fire extinguisher monthly inspection.
- Elevators with firefighters’ emergency operations monthly testing.
- Emergency generator 30 continuous minute monthly testing and associated transfer switch monthly testing.
- Means of egress daily inspection in areas that have undergone construction, repair, alterations or additions to ensure its ability to be used instantly in case of emergency.

42 CFR §482.41(b)(9) for hospitals, §485.623(c)(7) for CAHs, §418.110(d)(6) for inpatient hospices, §483.470(e)(1)(i) for ICF/IIDs, and §483.90(a)(7) for SNFs/NFs require these facilities to have an outside window or outside door in every sleeping room. CMS will permit a waiver of these outside window and outside door requirements to permit these providers to utilize facility and non-facility space that is not normally used for patient care to be utilized for temporary patient care or quarantine. (05/08/20)

**Telemedicine.** CMS is waiving the provisions related to telemedicine at 42 CFR §482.12(a)(8)–(9) for hospitals and §485.616(c) for CAHs, making it easier for telemedicine services to be furnished to the hospital’s patients through an agreement with an off-site hospital. This allows for increased access to necessary care for hospital and CAH patients, including access to specialty care. (04/14/20)

**Physician Services.** CMS is waiving requirements under 42 CFR §482.12(c)(1)–(2) and §482.12(c)(4), which requires that Medicare patients be under the care of a physician. This waiver may be implemented so long as it is not inconsistent with a state’s emergency preparedness or pandemic plan. This allows hospitals to use other practitioners to the fullest extent possible. (04/14/20)

**Anesthesia Services.** CMS is waiving requirements under 42 CFR §482.52(a)(5), §485.639(c)(2), and §416.42 (b)(2) that a certified registered nurse anesthetist (CRNA) is under the supervision of a physician in paragraphs §482.52(a)(5) and §485.639(c)(2). CRNA supervision will be at the discretion of the hospital and state law. This waiver applies to hospitals, CAHs, and Ambulatory Surgical Centers (ASCs). These waivers will allow CRNAs to function to the fullest extent of their licensure, and may be implemented so long as they are not inconsistent with a state’s emergency preparedness or pandemic plan. (04/14/20)
• **Utilization Review.** CMS is waiving certain requirements under 42 CFR §482.1(a)(3) and 42 CFR §482.30 which address the statutory basis for hospitals and includes the requirement that hospitals participating in Medicare and Medicaid must have a utilization review plan that meets specified requirements. CMS is waiving the entire utilization review condition of participation Utilization Review (UR) at §482.30, which requires that a hospital must have a UR plan with a UR committee that provides for a review of services furnished to Medicare and Medicaid beneficiaries to evaluate the medical necessity of the admission, duration of stay, and services provided. These flexibilities may be implemented so long as they are not inconsistent with a state’s emergency preparedness or pandemic plan. Removing these administrative requirements will allow hospitals to focus more resources on providing direct patient care. (04/14/20)

• **Written Policies and Procedures for Appraisal of Emergencies at Off Campus Hospital Departments.** CMS is waiving 42 CFR §482.12(f)(3), emergency services, with respect to surge facilities only, such that written policies and procedures for staff to use when evaluating emergencies are not required for surge facilities. This removes the burden on facilities to develop and establish additional policies and procedures at their surge facilities or surge sites related to the assessment, initial treatment and referral of patients. These flexibilities may be implemented so long as they are not inconsistent with a state’s emergency preparedness or pandemic plan. (04/14/20)

• **Emergency Preparedness Policies and Procedures.** CMS is waiving 42 CFR §482.15(b) and §485.625(b), which requires the hospital and CAH to develop and implement emergency preparedness policies and procedures, and §482.15(c)(1)–(5) and §485.625(c)(1)–(5) which requires that the emergency preparedness communication plans for hospitals and CAHs to contain specified elements with respect to the surge site. The requirement under the communication plan requires hospitals and CAHs to have specific contact information for staff, entities providing services under arrangement, patients’ physicians, other hospitals and CAHs, and volunteers. This would not be an expectation for the surge site. This waiver applies to both hospitals and CAHs, and removes the burden on facilities to establish these policies and procedures for their surge facilities or surge sites. (04/14/20)

• **Quality Assessment and Performance Improvement Program.** CMS is waiving 42 CFR §482.21(a)–(d) and (f), and §485.641(a), (b), and (d), which provide details on the scope of the program, the incorporation, and setting priorities for the program’s performance improvement activities, and integrated Quality Assurance & Performance Improvement programs (for hospitals that are part of a hospital system). These flexibilities, which apply to both hospitals and CAHs, may be implemented so long as they are not inconsistent with a state’s emergency preparedness or pandemic plan. We expect any improvements to the plan to focus on the Public Health Emergency (PHE). While this waiver decreases burden associated with the development of a hospital or CAH QAPI program, the requirement that hospitals and CAHs maintain an effective, ongoing, hospital-wide, data-driven quality assessment and performance improvement program will remain. This waiver applies to both hospitals and CAHs. (04/14/20)

• **Nursing Services.** CMS is waiving the requirements at 42 CFR §482.23(b)(4), which requires the nursing staff to develop and keep current a nursing care plan for each patient, and §482.23(b)(7), which requires the hospital to have policies and procedures in place establishing which outpatient departments are not required to have a registered nurse present. These waivers allow nurses
increased time to meet the clinical care needs of each patient and allows for the provision of nursing care to an increased number of patients. In addition, we expect that hospitals will need relief for the provision of inpatient services and as a result, the requirement to establish nursing-related policies and procedures for outpatient departments is likely of lower priority. These flexibilities apply to both hospitals and CAHs §485.635(d)(4), and may be implemented so long as they are not inconsistent with a state’s emergency preparedness or pandemic plan. (04/14/20)

- **FOOD AND DIETETIC SERVICES.** CMS is waiving the requirement at paragraph 42 CFR §482.28(b) (3), which requires providers to have a current therapeutic diet manual approved by the dietitian and medical staff readily available to all medical, nursing, and food service personnel. Such manuals would not need to be maintained at surge capacity sites. These flexibilities may be implemented so long as they are not inconsistent with a state’s emergency preparedness or pandemic plan. Removing these administrative requirements will allow hospitals to focus more resources on providing direct patient care. (04/14/20)

- **RESPIRATORY CARE SERVICES.** CMS is waiving the requirements at 42 CFR §482.57(b)(1) that require hospitals to designate in writing the personnel qualified to perform specific respiratory care procedures and the amount of supervision required for personnel to carry out specific procedures. These flexibilities may be implemented so long as they are not inconsistent with a state’s emergency preparedness or pandemic plan. Not being required to designate these professionals in writing will allow qualified professionals to operate to the fullest extent of their licensure and training in providing patient care. (04/14/20)

- **CAH PERSONNEL QUALIFICATIONS.** CMS is waiving the minimum personnel qualifications for clinical nurse specialists at paragraph 42 CFR §485.604(a)(2), nurse practitioners at paragraph §485.604(b)(1)–(3), and physician assistants at paragraph §485.604(c)(1)–(3). Removing these Federal personnel requirements will allow CAHs to employ individuals in these roles who meet state licensure requirements and provide maximum staffing flexibility. These flexibilities should be implemented so long as they are not inconsistent with a state’s emergency preparedness or pandemic plan. (04/14/20)

- **CAH STAFF LICENSURE.** CMS is deferring to staff licensure, certification, or registration to state law by waiving 42 CFR §485.608(d) regarding the requirement that staff of the CAH be licensed, certified, or registered in accordance with applicable federal, state, and local laws and regulations. This waiver will provide maximum flexibility for CAHs to use all available clinicians. These flexibilities may be implemented so long as they are not inconsistent with a state’s emergency preparedness or pandemic plan. (04/14/20)

- **CAH STATUS AND LOCATION.** CMS is waiving the requirement at 42 CFR §485.610(b) that the CAH be located in a rural area or an area being treated as being rural, allowing the CAH flexibility in the establishment of surge site locations. CMS is also waiving the requirement at §485.610(e) regarding the CAH’s off-campus and co-location requirements, allowing the CAH flexibility in establishing temporary off-site locations. In an effort to facilitate the establishment of CAHs without walls, these waivers will suspend restrictions on CAHs regarding their rural location and their location relative to other hospitals and CAHs. These flexibilities may be implemented so long as they are not inconsistent with a state’s emergency preparedness or pandemic plan. (04/14/20)
• **CAH LENGTH OF STAY.** CMS is waiving the requirements that CAHs limit the number of beds to 25, and that the length of stay be limited to 96 hours under the Medicare conditions of participation for number of beds and length of stay at 42 CFR §485.620. (04/14/20)

• **TEMPORARY EXPANSION LOCATIONS:** For the duration of the PHE related to COVID-19, CMS is waiving certain requirements under the Medicare conditions of participation at 42 CFR §482.41 and §485.623 (as noted elsewhere in this waiver document) and the provider based department requirements at §413.65 to allow hospitals to establish and operate as part of the hospital any location meeting those conditions of participation for hospitals that continue to apply during the PHE. This waiver also allows hospitals to change the status of their current provider-based department locations to the extent necessary to address the needs of hospital patients as part of the state or local pandemic plan. This extends to any entity operating as a hospital (whether a current hospital establishing a new location or an Ambulatory Surgical Center (ASC) enrolling as a hospital during the PHE pursuant to a streamlined enrollment and survey and certification process) so long as the relevant location meets the conditions of participation and other requirements not waived by CMS. This waiver will enable hospitals to meet the needs of Medicare beneficiaries. (04/14/20)

• **RESPONSIBILITIES OF PHYSICIANS IN CRITICAL ACCESS HOSPITALS (CAHS).** 42 C.F.R. § 485.631(B)(2). CMS is waiving the requirement for CAHs that a doctor of medicine or osteopathy be physically present to provide medical direction, consultation, and supervision for the services provided in the CAH at § 485.631(b)(2). CMS is retaining the regulatory language in the second part of the requirement at § 485.631(b)(2) that a physician be available “through direct radio or telephone communication, or electronic communication for consultation, assistance with medical emergencies, or patient referral.” Retaining this longstanding CMS policy and related longstanding sub-regulatory guidance that further described communication between CAHs and physicians will assure an appropriate level of physician direction and supervision for the services provided by the CAH. This will allow the physician to perform responsibilities remotely, as appropriate. This also allows CAHs to use nurse practitioners and physician assistants to the fullest extent possible, while ensuring necessary consultation and support as needed. (04/14/20)

• **LONG TERM CARE HOSPITALS - SITE NEUTRAL PAYMENT RATE PROVISIONS.** Also as required by section 3711(b) of the CARES Act, during the Public Health Emergency (PHE) due to COVID-19, the Secretary has waived section 1886(m)(6) of the Social Security Act relating to certain site neutral payment rate provisions for long-term care hospitals (LTCHs).

  o Section 3711(b)(1) of the CARES Act waives the payment adjustment under section 1886(m) (6)(C)(ii) of the Act for LTCHs that do not have a discharge payment percentage (DPP) for the period that is at least 50 percent during the COVID19 public health emergency period. Under this provision, for the purposes of calculating an LTCH’s DPP, all admissions during the COVID-19 public health emergency period will be counted in the numerator of the calculation, that is, LTCH cases that were admitted during the COVID-19 public health emergency period will be counted as discharges paid the LTCH PPS standard Federal payment rate.

  o Section 3711(b)(2) of the CARES Act provides a waiver of the application of the site neutral payment rate under section 1886(m)(6)(A)(i) of the Act for those LTCH admissions that are in response to the public health emergency and occur during the
COVID-19 public health emergency period. Under this provision, all LTCH cases admitted during the COVID-19 public health emergency period will be paid the relatively higher LTCH PPS standard Federal rate. A new LTCH PPS Pricer software package will be released in April 2020 to include this temporary payment policy effective for claims with an admission date occurring on or after January 27, 2020 and continuing through the duration of the COVID-19 public health emergency period. Claims received on or after April 21, 2020, will be processed in accordance with this waiver. Claims received April 20, 2020, and earlier will be reprocessed. LTCHs should add the “DR” condition code to applicable claims. (04/30/20)

- **Expanded Ability for Hospitals to Offer Long-term Care Services (“Swing-Beds”) for Patients Who Do Not Require Acute Care but Do Meet the Skilled Nursing Facility (SNF) Level of Care Criteria as Set Forth at 42 CFR 409.31.** Under section 1135(b)(1) of the Act, CMS is waiving the requirements at 42 CFR 482.58, “Special Requirements for hospital providers of long-term care services (“swing-beds”)” subsections (a)(1)-(4) “Eligibility”, to allow hospitals to establish SNF swing beds payable under the SNF prospective payment system (PPS) to provide additional options for hospitals with patients who no longer require acute care but are unable to find placement in a SNF. In order to qualify for this waiver, hospitals must:
  - Not use SNF swing beds for acute level care.
  - Comply with all other hospital conditions of participation and those SNF provisions set out at 42 CFR 482.58(b) to the extent not waived.
  - Be consistent with the state’s emergency preparedness or pandemic plan.

Hospitals must call the CMS Medicare Administrative Contractor (MAC) enrollment hotline to add swing bed services. The hospital must attest to CMS that:
  - They have made a good faith effort to exhaust all other options;
  - There are no skilled nursing facilities within the hospital’s catchment area that under normal circumstances would have accepted SNF transfers, but are currently not willing to accept or able to take patients because of the COVID-19 public health emergency (PHE);
  - The hospital meets all waiver eligibility requirements; and
  - They have a plan to discharge patients as soon as practicable, when a SNF bed becomes available, or when the PHE ends, whichever is earlier.

This waiver applies to all Medicare enrolled hospitals, except psychiatric and long term care hospitals that need to provide post-hospital SNF level swing-bed services for non-acute care patients in hospitals, so long as the waiver is not inconsistent with the state’s emergency preparedness or pandemic plan. The hospital shall not bill for SNF PPS payment using swing beds when patients require acute level care or continued acute care at any time while this waiver is in effect. This waiver is permissible for swing bed admissions during the COVID-19 PHE with an understanding that the hospital must have a plan to discharge swing bed patients as soon as practicable, when a SNF bed becomes available, or when the PHE ends, whichever is earlier. (05/12/20)
• **Hospitals Classified as Sole Community Hospitals (SCHs).** CMS is waiving certain eligibility requirements at 42 CFR §412.92(a) for hospitals classified as SCHs prior to the PHE. Specifically, CMS is waiving the distance requirements at paragraphs (a), (a)(1), (a)(2), and (a)(3) of 42 CFR §412.92, and is also waiving the “market share” and bed requirements (as applicable) at 42 CFR §412.92(a)(1)(i) and (ii). CMS is waiving these requirements for the duration of the PHE to allow these hospitals to meet the needs of the communities they serve during the PHE, such as to provide for increased capacity and promote appropriate cohorting of COVID-19 patients. MACs will resume their standard practice for evaluation of all eligibility requirements after the conclusion of the PHE period. (05/12/20)

• **Hospitals Classified as Medicare-Dependent, Small Rural Hospitals (MDHs).** For hospitals classified as MDHs prior to the PHE, CMS is waiving the eligibility requirement at 42 CFR §412.108(a)(1)(ii) that the hospital has 100 or fewer beds during the cost reporting period, and the eligibility requirement at 42 CFR §412.108(a)(1)(iv)(C) that at least 60 percent of the hospital’s inpatient days or discharges were attributable to individuals entitled to Medicare Part A benefits during the specified hospital cost reporting periods. CMS is waiving these requirements for the duration of the PHE to allow these hospitals to meet the needs of the communities they serve during the PHE, such as to provide for increased capacity and promote appropriate cohorting of COVID-19 patients. MACs will resume their standard practice for evaluation of all eligibility requirements after the conclusion of the PHE period. (05/12/20)

• **Specific Life Safety Code (LSC) for Multiple Providers - Waiver Information.** CMS is waiving and modifying particular waivers under 42 CFR §482.41(b) for hospitals; §485.623(c) for CAHs; §418.110(d) for inpatient hospice; §483.470(j) for ICF/IIDs and §483.90(a) for SNF/NFs. Specifically, CMS is modifying these requirements as follows:
  
  o **Alcohol-based Hand-Rub (ABHR) Dispensers:** We are waiving the prescriptive requirements for the placement of alcohol based hand rub (ABHR) dispensers for use by staff and others due to the need for the increased use of ABHR in infection control. However, ABHRs contain ethyl alcohol, which is considered a flammable liquid, and there are restrictions on the storage and location of the containers. This includes restricting access by certain patient/resident population to prevent accidental ingestion. Due to the increased fire risk for bulk containers (over five gallons) those will still need to be stored in a protected hazardous materials area. Refer to: 2012 LSC, sections 18/19.3.2.6. In addition, facilities should continue to protect ABHR dispensers against inappropriate use as required by 42 CFR §482.41(b)(7) for hospitals; §485.623(c)(5) for CAHs; §418.110(d)(4) for inpatient hospice; §483.470(j)(5)(ii) for ICF/IIDs and §483.90(a)(4) for SNF/NFs.

  o **Fire Drills:** Due to the inadvisability of quarterly fire drills that move and mass staff together, we will instead permit a documented orientation training program related to the current fire plan, which considers current facility conditions. The training will instruct employees, including existing, new or temporary employees, on their current duties, life safety procedures and the fire protection devices in their assigned area. Refer to: 2012 LSC, sections 18/19.7.1.6. (05/12/20)
STATE OF IOWA WAIVERS

DIA is currently reviewing hospital rules/Chapter 51 for waiver. (04/07/20)

- **Physical Environment.** In order to comply with the 1135 blanket waiver approval, the alternative locations must be approved by the State. In order to be approved by the State, the following must be submitted:
  - Provide the following information to the State Fire Marshal’s (SFM) at vasiljev@dps.state.ia.us:
    - Hospitals should consider utilizing buildings/venues that are protected by existing fire safety systems (sprinkler and/or fire alarm systems). These options should be used first if possible.
    - The 1135 waiver request for buildings that don’t meet life safety code requirements will need to have the following information provided to the State Fire Marshal:
      - A layout of the building that shows important features such as exits, doorways, fire walls (if applicable), etc.;
      - Information on installed sprinkler and/or fire alarm systems, as applicable (where installed, testing paperwork);
      - Confirmation of fire extinguishers on site and their locations;
      - Information on what will be used for emergency power (generator/battery back-up systems); and
      - Fire safety/evacuation plan for the proposed site (including evacuation procedures).
  - Provide the following information to DIA at christopher.dunn@dia.iowa.gov:
    - Type of service provided (e.g., COVID-19 positive, COVID-19 negative);
    - Location and type of space (e.g., hospital or non-hospital);
    - SFM review/approval of space;
    - Plan to address adequate space for patient, staff, equipment, and patient privacy. A floor plan if available. Adequate access to bathroom/necessities for ADLs (toilet, sinks, etc.);
    - Access to gasses and suction;
    - Connected to generator backup;
    - Bed increase above certificate of need, related to COVID-19 alternate site;
    - Security-controlled access plan;
    - Plan for coordination of communication/information e.g., EMS, parent hospital, IDPH, IDIA, LTC, home care, ambulatory care and families;
    - Plan to ensure staffing and adequate training for roles (i.e., OR RN functioning as med/surge RN);
    - Plan to address supplies and materials are on hand before opening the site, adhering to infection-control practices; and continued process for maintaining supplies, materials and hand hygiene supplies;
    - Plan to address admission criteria, specific needs of at-risk populations, maintaining services for patients with chronic conditions requiring regular
treatments e.g., dialysis patients and/or expectant mothers, or addressing significant change in condition (MET call, code, etc.);

- Plan for nutritional support, pharmaceutical security, pharmacy provide oversight to medication/orders/medications not on-site, provision of lab and radiology services, environmental services, contaminated waste and decontamination area e.g., eye wash and shower, management plan for decedents; and

- Determine if visitation should be restricted or stopped if threat is too high for patients and staff. Provide patients and families with information about stress responses, resilience, and provide mental health counseling. (04/07/20)

- **INSPECTOR QUALIFICATIONS.** Iowa Code § 135B.9(1)(a), requiring hospital inspectors be free of conflicts of interest, is suspended. (04/14/20)

- **Licensure of Doctors and Medical Staff.** Iowa Code § 135B.20(1) and Iowa Admin. Code rule 481—51.1, and any statute or rule using terms defined in those provisions, defining a “doctor” and “medical staff” as requiring all doctors and medical staff be licensed to practice in this state, is suspended to the extent that individual is licensed to practice in another state or in accordance with Section 37 of the Proclamation of Disaster Emergency issued on April 2, 2020.

  Section 37 of the Proclamation of Disaster Emergency issued on April 2, 2020, suspends the regulatory provisions of Iowa Code § 147.10 and Iowa Admin. Code rules 653—9.13(6) and 9.14, rules 655—3.7(5), rules 645—261.8, and rules 645—326.9(8), and all other implementing administrative rules which prohibit the practice of medicine and surgery, osteopathic medicine and surgery, nursing, respiratory care, and practice as a physician assistant, by a licensee whose license is inactive or lapsed. Suspension of these provisions is limited to licenses which have lapsed or expired within the five (5) years prior to this Proclamation and is further limited to the provision of medical and nursing care and treatment of victims of this public health disaster emergency and solely for the duration of this Proclamation. (04/14/20)

- **BACKGROUND CHECKS IN HOSPITALS.** Iowa Code § 135B.34 and Iowa Admin Code rule 481—51.41 require a hospital to complete a criminal history check prior to employment of an individual in a hospital. These regulatory provisions are suspended to the extent that a hospital may employ an individual once that criminal history check is submitted, pending completion. (04/14/20)

- **PHYSICAL SEPARATION BETWEEN A LONG-TERM ACUTE CARE HOSPITAL LOCATED WITHIN A GENERAL HOSPITAL.** Iowa Admin Code rule 481—51.4, requiring physical separation and distinction between a long-term acute care hospital located within a general hospital, is suspended to the extent that it is not feasible to maintain such separation. (04/14/20)

- **CLINICAL PRIVILEGES POLICIES.** Iowa Admin Code rule 481—51.5(4), requiring written criteria for the granting of clinical privileges, is suspended to the extent that policies shall not be required to be rewritten to accommodate waivers provided by the State or the Centers for Medicare and Medicaid Services. (04/14/20)

- **PATIENT RIGHTS AND RESPONSIBILITIES POLICIES.** Iowa Admin Code rule 481—51.6, requiring hospitals to adopt a statement of principles relating to patient rights and responsibilities,
suspended to the extent that policies shall not be require to be rewritten to accommodate waivers provided by the State or the Centers for Medicare and Medicaid Services. (04/14/20)

- **NURSING SERVICES – ORGANIZATION.** Iowa Admin Code rule 481—51.9(1), requiring the clear definition of authority, responsibility, and function of each nurse, is suspended to the extent that there is evidence that each nurse has been assessed competent in any area where they function. (04/14/20)

- **NURSING SERVICE – NURSING PROCESS.** Iowa Admin Code rule 481—51.9(2), requiring utilization of the nursing process, is suspended to the extent that it is not feasible to do so. (04/14/20)

- **NURSING SERVICES – LICENSURE OF NURSES.** Iowa Admin Code rule 481—51.9(4) requires all nurses employed in a hospital who practice nursing as a registered nurse or licensed practical nurse must hold an active Iowa license or an active license in another state and be recognized for licensure in this state pursuant to the nurse licensure compact in Iowa Code section 152E.1. These regulatory provisions are suspended to the extent that a nurse may also be employed if qualified for employment in accordance with Section 37 of the Proclamation of Disaster Emergency issued on April 2, 2020.

Section 37 of the Proclamation of Disaster Emergency issued on April 2, 2020, suspends the regulatory provisions of Iowa Code § 147.10 and Iowa Admin. Code rules 653—9.13(6) and 9.14, rules 655—3.7(5), rules 645—261.8, and rules 645—326.9(8), and all other implementing administrative rules which prohibit the practice of medicine and surgery, osteopathic medicine and surgery, nursing, respiratory care, and practice as a physician assistant, by a licensee whose license is inactive or lapsed. Suspension of these provisions is limited to licenses which have lapsed or expired within the five (5) years prior to this Proclamation and is further limited to the provision of medical and nursing care and treatment of victims of this public health disaster emergency and solely for the duration of this Proclamation. (04/14/20)

- **NURSING SERVICES – STAFFING LEVELS.** Iowa Admin Code rule 481—51.9(8), requiring the nursing service to have adequate numbers of licensed registered nurses, licensed practical nurses, and other personnel to provide nursing care, to the extent that the hospital has made all reasonable efforts to maintain sufficient staffing levels. (04/14/20)

- **NURSING SERVICES – PERSONNEL POLICIES.** Iowa Admin Code rule 481—51.9(9), requiring written policies and procedures be established for the administrative and technical guidance of the personnel in the hospital and that each employee be familiar with those policies or procedures, is suspended. (04/14/20)

- **HOSPITAL MEDICAL RECORDS.** Iowa Admin Code rule 481—51.12, requiring hospital medical record and report maintenance, is suspended to the extent that records shall continue to be maintained as required by federal regulation. (04/14/20)

- **VERBAL AND STANDING ORDERS.** Iowa Admin Code rules 481—51.14(3), 51.14(4), and 51.15, requiring procedures for authentication of verbal orders and standing orders, is suspended to the extent that hospitals comply with federal regulation related to such orders. (04/14/20)
• **Diet Manuals.** Iowa Admin Code rules 481—51.20(2)(d), requiring maintenance of a current diet manual, is suspended to the extent those manuals would be maintained at surge capacity sites. (04/14/20)

• **Hospital Equipment.** Iowa Admin Code rule 481—51.22, requiring hospital equipment be selected, maintained and utilized in accordance with the manufacturer’s specifications, is suspended to the extent it is not feasible to do so. (04/14/20)

• **Segregation of Patients’ Beds.** Iowa Admin Code rule 481—51.24(1), requiring segregation of patients’ beds, is suspended to the extent hospitals take all reasonable precautions to provide for the prevention of cross-infections and the control of communicable diseases. (04/14/20)

• **TB Testing.** Iowa Admin. Code rule 481—51.24(3), requiring a hospital perform a health assessment and screen and test an employee for tuberculosis pursuant to 481—Chapter 59, is suspended if it is not feasible for a hospital to do so, to the extent the hospital continues to assess new employees for infectious or communicable diseases and perform and document sign/symptom review of new health care workers and residents and places the health care worker or resident on a callback list to test as soon as possible. (04/14/20)

• **Emergency Service Policies.** Iowa Admin Code rule 481—51.30, requiring a hospital to have written policies and procedures specifying the scope and conduct of patient care to be provided in the emergency service, is suspended to the extent that policies shall not be required to be rewritten to accommodate this public health disaster emergency. (04/14/20)

• **Minimum Standards of Construction.** Iowa Admin Code rule 481—51.50, requiring minimum standards of construction for hospitals, is suspended to the extent that the Department of Inspections and Appeals and State Fire Marshal’s Office have approved the location as one that sufficiently addresses safety and comfort for patients and staff. (04/14/20)

• **Critical-Access Hospitals – Bed Limit.** Iowa Admin Code rule 481—51.53(4), requiring critical access hospitals maintain no more than 25 acute care inpatient beds, is suspended. (04/14/20)

• **Critical-Access Hospitals – Medicare COPs.** Iowa Admin Code rule 481—51.53(5), requiring critical access hospitals meet the Medicare conditions of participation as described in 42 CFR Part 485, Subpart F, is suspended to the extent waivers have been issued by the Centers for Medicare and Medicaid Services. (04/14/20)

Intermediate Care Facilities for Individuals with Intellectual Disabilities

1135 Blanket Waivers

• **Staffing Flexibilities.** CMS is waiving the requirements at 42 CFR §483.430(c)(4), which requires the facility to provide sufficient Direct Support Staff (DSS) so that Direct Care Staff (DCS) are not required to perform support services that interfere with direct client care. DSS perform activities such as cleaning of the facility, cooking and laundry services. DSC perform activities such as
teaching clients appropriate hygiene, budgeting, or effective communication and socialization skills. During the time of this waiver, DCS may be needed to conduct some of the activities normally performed by the DSS. This will allow facilities to adjust staffing patterns, while maintaining the minimum staffing ratios required at §483.430(d)(3). (04/30/20)

- **Suspension of Community Outings.** CMS is waiving the requirements at 42 CFR §483.420(a)(11) which requires clients have the opportunity to participate in social, religious, and community group activities. The federal and/or state emergency restrictions will dictate the level of restriction from the community based on whether it is for social, religious or medical purposes. States may have also imposed more restrictive limitations. CMS is authorizing the facility to implement social distancing precautions with respect to on and off-campus movement. State and Federal restrictive measures should be made in the context of competent, person-centered planning for each client. (04/30/20)

- **Suspension of Mandatory Training Requirements.** CMS is waiving, in-part, the requirements at 42 CFR §483.430(e)(1) related to routine staff training programs unrelated to the public health emergency. CMS is not waiving 42 CFR §483.430(e)(2)-(4) which requires focusing on the clients’ developmental, behavioral and health needs and being able to demonstrate skills related to interventions for inappropriate behavior and implementing individual plans. We are not waiving these requirements as we believe the staff ability to develop and implement the skills necessary to effectively address clients’ developmental, behavioral and health needs are essential functions for an ICF/IID. CMS is also not waiving initial training for new staff hires or training for staff around prevention and care for the infection control of COVID-19. It is critical that new staff gain the necessary skills and understanding of how to effectively perform their role as they work with this complex client population and that staff understand how to prevent and care for clients with COVID-19. (04/30/20)

- **Modification of Adult Training Programs and Active Treatment.** CMS recognizes that during the 4/21/2020 public health emergency, active treatment will need to be modified. The requirements at 42 CFR §483.440(a)(1) require that each client must receive a continuous active treatment program, which includes consistent implementation of a program of specialized and generic training, treatment, health services and related services. CMS is waiving those components of beneficiaries’ active treatment programs and training that would violate current state and local requirements for social distancing, staying at home, and traveling for essential services only. For example, although day habilitation programs and supported employment are important opportunities for training and socialization of clients at intermediate care facilities for individuals with developmental disabilities, these programs pose too high of a risk to staff and clients for exposure to a person with suspected or confirmed COVID-19. In accordance with §483.440(c)(1), any modification to a client’s Individual Program Plan (IPP) in response to treatment changes associated with the COVID-19 crisis requires the approval of the interdisciplinary team. For facilities that have interdisciplinary team members who are unavailable due to the COVID-19, CMS would allow for a retroactive review of the IPP under 483.440(f)(2) in order to allow IPPs to receive modifications as necessary based on the impact of the COVID-19 crisis. (04/30/20)
• **Inspection, Testing & Maintenance (ITM) under the Physical Environment Conditions of Participation:** CMS is waiving certain physical environment requirements for Hospitals, CAHs, inpatient hospice, ICF/IIDs, and SNFs/NFs to reduce disruption of patient care and potential exposure/transmission of COVID-19. The physical environment regulations require that facilities and equipment be maintained to ensure an acceptable level of safety and quality. CMS will permit facilities to adjust scheduled inspection, testing and maintenance (ITM) frequencies and activities for facility and medical equipment.

  o 42 CFR §482.41(d) for hospitals, §485.623(b) for CAH, §418.110(c)(2)(iv) for inpatient hospice, §483.470(j) for ICF/IID; and §483.90 for SNFs/NFs all require these facilities and their equipment to be maintained to ensure an acceptable level of safety and quality. CMS is temporarily modifying these requirements to the extent necessary to permit these facilities to adjust scheduled inspection, testing and maintenance (ITM) frequencies and activities for facility and medical equipment.

  o 42 CFR §482.41(b)(1)(i) and (c) for hospitals, §485.623(c)(1)(i) and (d) for CAHs, §482.41(d)(1)(j) and (e) for inpatient hospices, §483.470(j)(1)(i) and (5)(v) for ICF/IIDs, and §483.90(a)(1)(i) and (b) for SNFs/NFs require these facilities to be in compliance with the Life Safety Code (LSC) and Health Care Facilities Code (HCFC). CMS is temporarily modifying these provisions to the extent necessary to permit these facilities to adjust scheduled ITM frequencies and activities required by the LSC and HCFC. The following LSC and HCFC ITM are considered critical and are not included in this waiver:

    ▪ Sprinkler system monthly electric motor-driven and weekly diesel engine driven fire pump testing.
    ▪ Portable fire extinguisher monthly inspection.
    ▪ Elevators with firefighters’ emergency operations monthly testing.
    ▪ Emergency generator 30 continuous minute monthly testing and associated transfer switch monthly testing.
    ▪ Means of egress daily inspection in areas that have undergone construction, repair, alterations or additions to ensure its ability to be used instantly in case of emergency.

  o 42 CFR §482.41(b)(9) for hospitals, §485.623(c)(7) for CAHs, §418.110(d)(6) for inpatient hospices, §483.470(e)(1)(i) for ICF/IIDs, and §483.90(a)(7) for SNFs/NFs require these facilities to have an outside window or outside door in every sleeping room. CMS will permit a waiver of these outside window and outside door requirements to permit these providers to utilize facility and non-facility space that is not normally used for patient care to be utilized for temporary patient care or quarantine. (05/08/20)

• **Specific Life Safety Code (LSC) for Multiple Providers - Waiver Information.** CMS is waiving and modifying particular waivers under 42 CFR §482.41(b) for hospitals; §485.623(c) for CAHs; §418.110(d) for inpatient hospice; §483.470(j) for ICF/IIDs and §483.90(a) for SNF/NFs. Specifically, CMS is modifying these requirements as follows:
o **Alcohol-based Hand-Rub (ABHR) Dispensers:** We are waiving the prescriptive requirements for the placement of alcohol-based hand rub (ABHR) dispensers for use by staff and others due to the need for the increased use of ABHR in infection control. However, ABHRs contain ethyl alcohol, which is considered a flammable liquid, and there are restrictions on the storage and location of the containers. This includes restricting access by certain patient/resident population to prevent accidental ingestion. Due to the increased fire risk for bulk containers (over five gallons) those will still need to be stored in a protected hazardous materials area. Refer to: 2012 LSC, sections 18/19.3.2.6. In addition, facilities should continue to protect ABHR dispensers against inappropriate use as required by 42 CFR §482.41(b)(7) for hospitals; §485.623(c)(5) for CAHs; §418.110(d)(4) for inpatient hospice; §483.470(j)(5)(ii) for ICF/IIDs and §483.90(a)(4) for SNF/NFs.

o **Fire Drills:** Due to the inadvisability of quarterly fire drills that move and mass staff together, we will instead permit a documented orientation training program related to the current fire plan, which considers current facility conditions. The training will instruct employees, including existing, new or temporary employees, on their current duties, life safety procedures and the fire protection devices in their assigned area. Refer to: 2012 LSC, sections 18/19.7.1.6. (05/12/20)

**STATE OF IOWA WAIVERS**

- **Background Checks.** Iowa Code § 135C.33 and Iowa Administrative Code rules 481—50.9(3) and (9) require intermediate care facilities for persons with an intellectual disability to complete a criminal history check prior to employment of an individual in a facility. These regulatory provisions are suspended to the extent that a facility may employ an individual once that criminal history check is submitted, pending completion. DIA suggests that facilities utilize a third-party vendor to conduct a comprehensive preliminary background check and provisionally employ the applicant pending completion of the required record checks through the single contact repository and the evaluation by the department of human services. (04/07/20)

- **Fines.** Fines for intermediate care facilities for persons with an intellectual disability required by Iowa Code § 135C.36 and Iowa Administrative Code rule 481—56.2 are waived to the extent that such fines may be issued in suspension. (04/07/20)

- **Medication Administration.** Iowa Administrative Code rule 64.4(9)(b), requiring a person administering medications in an intermediate care facility for the intellectually disabled to complete a department-approved medication aide course and pass a department-approved medication aide exam, is suspended to the extent the person has successfully completed a state-approved medication manager course and passed a State-approved medication manager exam to administer medications. (04/07/20)

- **Certified Medication Aides in ICF/IID.** Iowa Admin Code rule 481—64.4(9)(d), requiring a person who has written documentation of certification as a medication aide in another state complete a department-approved nurse aide competency examination and medication aide challenge examination, is suspended to the extent the individual is able to demonstrate competency in safe medication administration. (04/14/20)
Intermediate Care Facilities for Persons with Mental Illness

STATE OF IOWA WAIVERS

- **Certified Medication Aides in ICF/PMI.** Iowa Admin Code rule 481—65.17(1)(e), requiring a person who has written documentation of certification as a medication aide in another state complete a department-approved nurse aide competency examination and medication aide challenge examination, is suspended to the extent the individual is able to demonstrate competency in safe medication administration. (04/14/20)

Long-Term Care Facilities

1135 BLANKET WAIVERS

- **Three-Day Prior Hospitalization.** Using the authority under Section 1812(f) of the Act, CMS is waiving the requirement for a three-day prior hospitalization for coverage of a skilled nursing facility (SNF) stay, which provides temporary emergency coverage of SNF services without a qualifying hospital stay, for those people who experience dislocations, or are otherwise affected by COVID-19. In addition, for certain beneficiaries who recently exhausted their SNF benefits, it authorizes renewed SNF coverage without first having to start a new benefit period (this waiver will apply only for those beneficiaries who have been delayed or prevented by the emergency itself from commencing or completing the process of ending their current benefit period and renewing their SNF benefits that would have occurred under normal circumstances). (04/07/20)

- **Reporting Minimum Data Set.** CMS is waiving 42 CFR 483.20 to provide relief to SNFs on the timeframe requirements for minimum data set assessments and transmission. (04/07/20)

- **Staffing Data Submission.** CMS is waiving 42 CFR 483.70(q) to provide relief to long-term care facilities on the requirements for submitting staffing data through the payroll-based journal system. (04/07/20)

- **Waive Pre-Admission Screening and Annual Resident Review (PASARR).** CMS is waiving 42 CFR 483.20(k) allowing states and nursing homes to suspend these assessments for new residents for 30 days. After 30 days, new patients admitted to nursing homes with a mental illness or intellectual disability should receive the assessment as soon as resources become available. (04/07/20)

- **Physical Environment.** CMS is waiving requirements related at 42 CFR 483.90, specifically:
  - Provided that the state has approved the location (see “Physical Environment” under State of Iowa Waivers for instructions) as one that sufficiently addresses safety and comfort for patients and staff, CMS is waiving requirements under § 483.90 to allow for a non-SNF building to be temporarily certified and available for use by a SNF in the event there are needs for isolation processes for COVID-19 positive residents, which may not be feasible in the existing SNF structure to ensure care and services during treatment for COVID-19 are available while protecting other vulnerable adults. CMS believes this will also provide another measure that will free up inpatient care beds at hospitals for the most acute patients while providing beds for those still in need of care. CMS will waive
certain conditions of participation and certification requirements for opening a NF if the state determines there is a need to quickly stand up a temporary COVID-19 isolation and treatment location.

- **CMS is also waiving requirements under 42 CFR 483.90 to temporarily allow for rooms in a long-term care facility not normally used as a resident’s room, to be used to accommodate beds and residents for resident care in emergencies and situations needed to help with surge capacity. Rooms that may be used for this purpose include activity rooms, meeting/conference rooms, dining rooms, or other rooms, as long as residents can be kept safe, comfortable, and other applicable requirements for participation are met. This can be done so long as it is not inconsistent with a state’s emergency preparedness or pandemic plan, or as directed by the local or state health department. (04/07/20)**

- **Resident Groups.** CMS is waiving the requirements at 42 CFR 483.10(f)(5), which ensure residents can participate in-person in resident groups. This waiver would only permit the facility to restrict in-person meetings during the national emergency given the recommendations of social distancing and limiting gatherings of more than 10 people. Refraining from in-person gatherings will help prevent the spread of COVID-19. (04/07/20)

- **Training and Certification of Nurse Aides.** CMS is waiving the requirements at 42 CFR 483.35(d) (with the exception of 42 CFR 483.35(d)(1)(i)), which require that a SNF and NF may not employ anyone for longer than four months unless they met the training and certification requirements under § 483.35(d). CMS is waiving these requirements to assist in potential staffing shortages seen with the COVID-19 pandemic. To ensure the health and safety of nursing home residents, CMS is not waiving 42 CFR § 483.35(d)(1)(i), which requires facilities to not use any individual working as a nurse aide for more than four months, on a full-time basis, unless that individual is competent to provide nursing and nursing-related services. We further note that we are not waiving § 483.35(c), which requires facilities to ensure that nurse aides are able to demonstrate competency in skills and techniques necessary to care for residents’ needs, as identified through resident assessments, and described in the plan of care. (04/07/20)

- **Physician Visits in Skilled Nursing Facilities/Nursing Facilities.** CMS is waiving the requirement in 42 CFR 483.30 for physicians and non-physician practitioners to perform in-person visits for nursing home residents and allow visits to be conducted, as appropriate, via telehealth options. (04/07/20)

- **Resident Roommates and Grouping.** CMS is waiving the requirements in 42 CFR 483.10(e)(5), (6), and (7) solely for the purposes of grouping or cohorting residents with respiratory illness symptoms and/or residents with a confirmed diagnosis of COVID-19, and separating them from residents who are asymptomatic or tested negative for COVID-19. This action waives a facility’s requirements, under 42 CFR 483.10, to provide for a resident to share a room with his or her roommate of choice in certain circumstances, to provide notice and rationale for changing a resident’s room, and to provide for a resident’s refusal a transfer to another room in the facility. This aligns with CDC guidance to preferably place residents in locations designed to care for COVID-19 residents, to prevent the transmission of COVID-19 to other residents. (04/07/20)
• **Resident Transfer and Discharge.** CMS is waiving requirements in 42 CFR 483.10(c)(5); 483.15(c)(3), (c)(4)(ii), (c)(5)(i) and (iv), (c)(9), and (d); and § 483.21(a)(1)(i), (a)(2)(i), and (b)(2)(i) (with some exceptions) to allow a long-term care (LTC) facility to transfer or discharge residents to another LTC facility solely for the following cohorting purposes:

  o Transferring residents with symptoms of a respiratory infection or confirmed diagnosis of COVID-19 to another facility that agrees to accept each specific resident, and is dedicated to the care of such residents;

  o Transferring residents without symptoms of a respiratory infection or confirmed to not have COVID-19 to another facility that agrees to accept each specific resident, and is dedicated to the care of such residents to prevent them from acquiring COVID-19; or

  o Transferring residents without symptoms of a respiratory infection to another facility that agrees to accept each specific resident to observe for any signs or symptoms of a respiratory infection over 14 days.

Exceptions:

  o These requirements are only waived in cases where the transferring facility receives confirmation that the receiving facility agrees to accept the resident to be transferred or discharged. Confirmation may be in writing or verbal. If verbal, the transferring facility needs to document the date, time and person that the receiving facility communicated agreement.

  o In § 483.10, we are only waiving the requirement, under § 483.10(c)(5), that a facility provide advance notification of options relating to the transfer or discharge to another facility. Otherwise, all requirements related to § 483.10 are not waived. Similarly, in § 483.15, we are only waiving the requirement, under § 483.15(c)(3), (c)(4)(ii), (c)(5)(i) and (iv), and (d), for the written notice of transfer or discharge to be provided before the transfer or discharge. This notice must be provided as soon as practicable.

  o In § 483.21, we are only waiving the timeframes for certain care planning requirements for residents who are transferred or discharged for the purposes explained in 1–3 above. Receiving facilities should complete the required care plans as soon as practicable, and we expect receiving facilities to review and use the care plans for residents from the transferring facility, and adjust as necessary to protect the health and safety of the residents the apply to.

  o These requirements are also waived when the transferring residents to another facility, such as a COVID-19 isolation and treatment location, with the provision of services “under arrangements,” as long as it is not inconsistent with a state’s emergency preparedness or pandemic plan, or as directed by the local or state health department. In these cases, the transferring LTC facility need not issue a formal discharge, as it is still considered the provider and should bill Medicare normally for each day of care. The transferring LTC facility is then responsible for reimbursing the other provider that accepted its resident(s) during the emergency period.

  o If the LTC facility does not intend to provide services under arrangement, the COVID-19 isolation and treatment facility is the responsible entity for Medicare billing purposes. The LTC facility should follow the procedures described in 40.3.4 of the Medicare Claims.
Processing Manual to submit a discharge bill to Medicare. The COVID-19 isolation and treatment facility should then bill Medicare appropriately for the type of care it is providing for the beneficiary. If the COVID-19 isolation and treatment facility is not yet an enrolled provider, the facility should enroll through the provider enrollment hotline for the Medicare Administrative Contractor that services their geographic area to establish temporary Medicare billing privileges. We remind LTC facilities that they are responsible for ensuring that any transfers (either within a facility, or to another facility) are conducted in a safe and orderly manner, and that each resident’s health and safety is protected. We also remind states that under 42 CFR 488.426(a)(1), in an emergency, the State has the authority to transfer Medicaid and Medicare residents to another facility. (04/07/20)

- **Physician Delegation of Tasks in SNFs.** 42 C.F.R. 483.30(E)(4). CMS is waiving the requirement in § 483.30(e)(4) that prevents a physician from delegating a task when the regulations specify that the physician must perform it personally. This waiver gives physicians the ability to delegate any tasks to a physician assistant, nurse practitioner, or clinical nurse specialist who meets the applicable definition in 42 C.F.R. 491.2 or, in the case of a clinical nurse specialist, is licensed as such by the State and is acting within the scope of practice laws as defined by State law. We are temporarily modifying this regulation to specify that any task delegated under this waiver must continue to be under the supervision of the physician. This waiver does not include the provision of § 483.30(e)(4) that prohibits a physician from delegating a task when the delegation is prohibited under State law or by the facility’s own policy. (04/14/20)

- **Physician Visits.** 42 C.F.R. 483.30(c)(3). CMS is waiving the requirement at § 483.30(c)(3) that all required physician visits (not already exempted in § 483.30(c)(4) and (f)) must be made by the physician personally. We are modifying this provision to permit physicians to delegate any required physician 13 visit to a nurse practitioner, physician assistant, or clinical nurse specialist who is not an employee of the facility, who is working in collaboration with a physician, and who is licensed by the State and performing within the state’s scope of practice laws.

  **Note to Facilities:** These actions will assist in potential staffing shortages, maximize the use of medical personnel, and protect the health and safety of residents during this public health emergency. We note that we are not waiving the requirements for the frequency of required physician visits at § 483.30(c)(1). As set out above, we have only modified the requirement to allow for the requirement to be met by a nurse practitioner, physician assistant, or clinical nurse specialist, and via telehealth or other remote communication options, as appropriate. In addition, we note that we are not waiving our requirements for physician supervision in § 483.30(a)(1), and the requirement at § 483.30(d)(3) for the facility to provide or arrange for the provision of physician services 24 hours a day, in case of an emergency. It is important that the physician be available for consultation regarding a resident’s care. (04/14/20)

- **Quality Assurance and Performance Improvement (QAPI).** CMS is modifying certain requirements in 42 CFR §483.75, which requires long-term care facilities to develop, implement, evaluate, and maintain an effective, comprehensive, data driven QAPI program. Specifically, CMS is modifying §483.75(b)–(d) and (e)(3) to the extent necessary to narrow the scope of the QAPI program to focus on adverse events and infection control. This will help ensure facilities focus on aspects of care delivery most closely associated with COVID-19 during the PHE. (05/04/20)
• **In-Service Training.** CMS is modifying the nurse aide training requirements at §483.95(g)(1) for SNFs and NFs, which requires the nursing assistant to receive at least 12 hours of in-service training annually. In accordance with section 1135(b)(5) of the Act, we are postponing the deadline for completing this requirement throughout the COVID-19 PHE until the end of the first full quarter after the declaration of the PHE concludes. (05/04/20)

• **Detailed Information Sharing for Discharge Planning for Long-Term Care (LTC) Facilities.** CMS is waiving the discharge planning requirement in §483.21(c)(1)(viii), which requires LTC facilities to assist residents and their representatives in selecting a post-acute care provider using data, such as standardized patient assessment data, quality measures and resource use. This temporary waiver is to provide facilities the ability to expedite discharge and movement of residents among care settings. CMS is maintaining all other discharge planning requirements, such as but not limited to, ensuring that the discharge needs of each resident are identified and result in the development of a discharge plan for each resident; involving the interdisciplinary team, as defined at 42 CFR §483.21(b)(2)(ii), in the ongoing process of developing the discharge plan address the resident’s goals of care and treatment preferences. (05/04/20)

• **Clinical Records.** Pursuant to section 1135(b)(5) of the Act, CMS is modifying the requirement at 42 CFR §483.10(g)(2)(ii) which requires long-term care (LTC) facilities to provide a resident a copy of their records within two working days (when requested by the resident). Specifically, CMS is modifying the timeframe requirements to allow LTC facilities ten working days to provide a resident’s record rather than two working days. (05/04/20)

• **Inspection, Testing & Maintenance (ITM) under the Physical Environment Conditions of Participation:** CMS is waiving certain physical environment requirements for Hospitals, CAHs, inpatient hospice, ICF/IID, and SNFs/NFs to reduce disruption of patient care and potential exposure/transmission of COVID-19. The physical environment regulations require that facilities and equipment be maintained to ensure an acceptable level of safety and quality. CMS will permit facilities to adjust scheduled inspection, testing and maintenance (ITM) frequencies and activities for facility and medical equipment.

  - 42 CFR §482.41(d) for hospitals, §485.623(b) for CAH, §418.110(c)(2)(iv) for inpatient hospice, §483.470(j) for ICF/IID; and §483.90 for SNFs/NFs all require these facilities and their equipment to be maintained to ensure an acceptable level of safety and quality. CMS is temporarily modifying these requirements to the extent necessary to permit these facilities to adjust scheduled inspection, testing and maintenance (ITM) frequencies and activities for facility and medical equipment.

  - 42 CFR §482.41(b)(1)(i) and (c) for hospitals, §485.623(c)(1)(i) and (d) for CAHs, §482.41(d)(1)(i) and (e) for inpatient hospices, §483.470(j)(1)(i) and (5)(v) for ICF/IID, and §483.90(a)(1)(i) and (b) for SNFs/NFs require these facilities to be in compliance with the Life Safety Code (LSC) and Health Care Facilities Code (HCFC). CMS is temporarily modifying these provisions to the extent necessary to permit these facilities to adjust scheduled ITM frequencies and activities required by the LSC and HCFC. The following LSC and HCFC ITM are considered critical are **not** included in this waiver:

    - Sprinkler system monthly electric motor-driven and weekly diesel engine driven fire pump testing.
- Portable fire extinguisher monthly inspection.
- Elevators with firefighters’ emergency operations monthly testing.
- Emergency generator 30 continuous minute monthly testing and associated transfer switch monthly testing.
- Means of egress daily inspection in areas that have undergone construction, repair, alterations or additions to ensure its ability to be used instantly in case of emergency.
  - 42 CFR §482.41(b)(9) for hospitals, §485.623(c)(7) for CAHs, §418.110(d)(6) for inpatient hospices, §483.470(e)(1)(i) for ICF/IIDs, and §483.90(a)(7) for SNFs/NFs require these facilities to have an outside window or outside door in every sleeping room. CMS will permit a waiver of these outside window and outside door requirements to permit these providers to utilize facility and non-facility space that is not normally used for patient care to be utilized for temporary patient care or quarantine. (05/08/20)

- **PAID FEEDING ASSISTANTS.** CMS is modifying the requirements at 42 CFR §§483.60(h)(1)(i) and 483.160(a) regarding required training of paid feeding assistants. Specifically, CMS is modifying the minimum timeframe requirements in these sections, which require this training to be a minimum of 8 hours. CMS is modifying to allow that the training can be a minimum of 1 hour in length. CMS is not waiving any other requirements under 42 CFR §483.60(h) related to paid feeding assistants or the required training content at 42 CFR §483.160(a)(1)-(8), which contains infection control training and other elements. Additionally, CMS is also not waiving or modifying the requirements at 42 CFR §483.60(h)(2)(i), which requires that a feeding assistant must work under the supervision of a registered nurse (RN) or licensed practical nurse (LPN). (05/12/20)

- **SPECIFIC LIFE SAFETY CODE (LSC) FOR MULTIPLE PROVIDERS - WAIVER INFORMATION.** CMS is waiving and modifying particular waivers under 42 CFR §482.41(b) for hospitals; §485.623(c) for CAHs; §418.110(d) for inpatient hospice; §483.470(j) for ICF/IIDs and §483.90(a) for SNF/NFs. Specifically, CMS is modifying these requirements as follows:
  - **ALCOHOL-BASED HAND-RUB (ABHR) DISPENSERS:** We are waiving the prescriptive requirements for the placement of alcohol based hand rub (ABHR) dispensers for use by staff and others due to the need for the increased use of ABHR in infection control. However, ABHRs contain ethyl alcohol, which is considered a flammable liquid, and there are restrictions on the storage and location of the containers. This includes restricting access by certain patient/resident population to prevent accidental ingestion. Due to the increased fire risk for bulk containers (over five gallons) those will still need to be stored in a protected hazardous materials area. Refer to: 2012 LSC, sections 18/19.3.2.6. In addition, facilities should continue to protect ABHR dispensers against inappropriate use as required by 42 CFR §482.41(b)(7) for hospitals; §485.623(c)(5) for CAHs; §418.110(d)(4) for inpatient hospice; §483.470(j)(5)(i) for ICF/IIDs and §483.90(a)(4) for SNF/NFs.
  - **FIRE DRILLS:** Due to the inadvisability of quarterly fire drills that move and mass staff together, we will instead permit a documented orientation training program related to the current fire plan, which considers current facility conditions. The training will instruct
employees, including existing, new or temporary employees, on their current duties, life safety procedures and the fire protection devices in their assigned area. Refer to: 2012 LSC, sections 18/19.7.1.6. (05/12/20)

STATE OF IOWA WAIVERS

- **BACKGROUND CHECKS.** Iowa Code § 135C.33 and Iowa Administrative Code rules 481—50.9(3) and (9) require nursing facilities to complete a criminal history check prior to employment of an individual in a facility. These regulatory provisions are suspended to the extent that a facility may employ an individual once that criminal history check is submitted, pending completion. DIA suggests that facilities utilize a third-party vendor to conduct a comprehensive preliminary background check and provisionally employ the applicant pending completion of the required record checks through the single contact repository and the evaluation by the Iowa Department of Human Services. (04/07/20)

- **PHYSICAL ENVIRONMENT.** In order to comply with the 1135 blanket waiver approval, the alternative locations must be approved by the State. In order to be approved by the state, the following must be submitted:
  - Provide the following information to the State Fire Marshal’s office (SFM) at vasiljev@dps.state.ia.us:
    - It’s important for nursing homes to consider utilizing buildings/venues that are protected by existing fire safety systems (sprinkler and/or fire alarm systems). These options should be used first if possible.
    - The 1135 waiver request for buildings that don’t meet life safety code requirements will need to have the following information provided to the SFM:
      - A layout of the building that shows important features such as exits, doorways, fire walls (if applicable), etc;
      - Information on installed sprinkler and/or fire alarm systems, as applicable (where installed, testing paperwork);
      - Confirmation of fire extinguishers on site and their locations;
      - Information on what will be used for emergency power (generator/battery back-up systems); and
      - Fire safety/evacuation plan for the proposed site (including evacuation procedures).
  - Provide the following information to DIA at mindla.white@dia.iowa.gov:
    - Type of service provided (e.g., COVID-19 positive, COVID-19 negative);
    - Location and type of space (e.g., hospital or non-hospital);
    - SFM review/approval of space;
    - Plan to address adequate space for patient, staff, equipment, and patient privacy. A floor plan if available. Adequate access to bathroom/necessities for ADLs (toilet, sinks, etc.);
    - Bed increase above certificate of need, related to COVID-19 alternate site;
    - Security-controlled access plan;
    - Plan for coordination of communication/information (e.g., with EMS, IDPH, DIA, and families);
- Plan to ensure staffing and adequate training for roles;
- Plan to address supplies and materials are on hand before opening the site, adhering to infection-control practices; and continued process for maintaining supplies, materials and hand hygiene supplies;
- Plan for nutritional support, pharmaceutical security, environmental services; and
- Visitation guidelines/plans. (04/07/20)

- **FINES IN NURSING FACILITIES.** Fines for nursing facilities required by Iowa Code § 135C.36 and Iowa Administrative Code rule 481—56.2 are suspended to the extent that such fines may be issued in suspension. (04/07/20)

- **NURSING FACILITY RENEWAL APPLICATIONS.** Iowa Code § 135C.8 and Iowa Administrative Code rule 481—58.3(3)(a), requiring a nursing facility to submit renewal applications at least 30 days in advance of license expiration, are suspended. (04/07/20)

- **MEDICATION ADMINISTRATION BY NURSING STUDENTS IN NURSING FACILITIES.** Iowa Administrative Code rule 481—58.21(6)(d), requiring nursing students to administer medications in nursing facilities only after successful completion of a medication aide course or challenge exam, is suspended to the extent the nursing student meets the requirements of Iowa Administrative Code rules 481—58.21(6)(d)(1), (2), and (4), and the facility has documentation that it has implemented training and supervision measures to ensure the student’s competency in safe medication administration. (04/07/20)

- **REGULAR DENTAL SERVICES IN NURSING FACILITIES.** Iowa Administrative Code rule 481—58.23(1)(a), requiring nursing facilities to assist residents to obtain regular and emergency dental services, is suspended to the extent those facilities continue to assist residents in obtaining emergency dental services. (04/07/20)

- **GROUP ACTIVITIES IN NURSING FACILITIES.** Iowa Administrative Code rule 481—58.26(1), requiring group activities provided by nursing facilities, is suspended. (04/07/20)

- **IN-PERSON VISITATION IN NURSING FACILITIES.** Iowa Administrative Code rule 481—58.47, permitting in-person visits with residents in nursing facilities, is suspended. (04/07/20)

- **INvoluntary DISCHARGE FOR NON-PAYMENT IN NURSING FACILITIES.** Iowa Administrative Code rule 481—58.40(1)(c), permitting a nursing facility to involuntarily discharge or transfer a resident for nonpayment for the resident’s stay, is suspended. (04/07/20)

- **CERTIFIED NURSE AIDE TRAINING.** Iowa Admin Code rule 481—58.11(1)(i) provides that a nurse aide who has not completed the state-approved 75-hour nurse’s aide program shall be required to participate in a structured on-the-job training program of 20 hours’ duration. This provision is suspended to the extent that the individual has completed a comparable training course approved by the department of inspections and appeals or has completed at least 20 hours of the state-approved 75-hour nurse’s aide program and the facility has documentation that it has implemented training and supervision measures to ensure the individual’s competency in any tasks performed. (04/14/20)
• **CERTIFIED NURSE AIDE TRAINING — LICENSURE IN ANOTHER STATE.** Iowa Admin Code rule 481—58.11(1)(k), requiring that certified nurse aides who have received training other than the Iowa state-approved program must pass a challenge examination, is suspended to the extent that the individual is able to demonstrate competency in skills and techniques necessary to care for residents’ needs as required by 42 CFR § 483.35(c) and (d)(1)(i). (04/14/20)

• **CERTIFIED MEDICATION AIDES IN NURSING FACILITIES.** Iowa Admin Code rule 481—58.21(6)(e), requiring a person who has written documentation of certification as a medication aide in another state complete a department-approved nurse aide competency examination and medication aide challenge examination, is suspended to the extent the individual is able to demonstrate competency in safe medication administration. (04/14/20)

The full text of Governor Reynold’s March 26, 2020, proclamation may be viewed here.

### Residential Care Facilities

**1135 BLANKET WAIVERS**

There are currently no 1135 blanket waivers impacting RCF. (04/07/20)

**STATE OF IOWA WAIVERS**

• **BACKGROUND CHECKS.** Iowa Code § 135C.33 and Iowa Administrative Code rules 481—50.9(3) and (9) require residential care facilities to complete a criminal history check prior to employment of an individual in a facility. These regulatory provisions are suspended to the extent that a facility may employ an individual once that criminal history check is submitted, pending completion. DIA suggests that facilities utilize a third-party vendor to conduct a comprehensive preliminary background check and provisionally employ the applicant pending completion of the required record checks through the single contact repository and the evaluation by the Iowa Department of Human Services. (04/07/20)

• **FINES.** Fines for residential care facilities required by Iowa Code § 135C.36 and Iowa Administrative Code rule 481—56.2 are waived to the extent that such fines may be issued in suspension. (04/07/20)

• **REGULAR DENTAL SERVICES.** Iowa Administrative Code rule 481—57.20(1), requiring residential care facilities assist residents to obtain regular and emergency dental services, is suspended to the extent those facilities continue to assist residents in obtaining emergency dental services. (04/07/20)

• **GROUP ACTIVITIES.** Iowa Administrative Code rule 481—57.23(1), requiring group activities provided by residential care facilities, is suspended. (04/07/20)

• **UPDATING SERVICE PLANS.** Iowa Administrative Code rule 481—57.22(3), requiring a residential care facility to update a resident’s service plan within 30 days of admission, is suspended. (04/07/20)

• **PHYSICAL EXAMINATION PRIOR TO EMPLOYMENT.** Iowa Administrative Code rule 481—57.11(6), requiring a residential care facility employee have a physical examination no longer than 12 months prior to beginning employment, is suspended to the extent it is not feasible for a facility to obtain the required physical examination prior to beginning employment. (04/07/20)
• **TB Testing.** Iowa Administrative Code rule 481—57.11(6), requiring a residential care facility screen and test an employee for tuberculosis pursuant to 481—Chapter 59, is suspended to the extent that it is not feasible for a residential care facility to perform the required testing and the facility continues to perform and document sign/symptom review of new health care workers and residents and places the health care worker or resident on a callback list to test as soon as possible. (04/07/20)

• **Medication Administration.** Iowa Administrative Code rule 481—57.19(3)(c), requiring a person administering medications in a residential care facility to complete a department-approved medication aide course and pass a department-approved medication aide exam, is suspended to the extent the person has successfully completed a State-approved medication manager course and passed a State-approved medication manager exam to administer medications. (04/07/20)

• **Orientation.** Iowa Administrative Code rule 481—57.22(1), requiring a residential care facility provide orientation within 24 hours of admission, is suspended to the extent the facility must continue to provide a review of the resident’s rights and the facility’s evacuation plan. (04/07/20)

• **Involuntary Discharge for Non-Payment.** Iowa Administrative Code rule 481—57.14(1)(e), permitting a residential care facility to involuntarily discharge or transfer a resident for nonpayment for the resident’s stay, is suspended. (04/07/20)

• **Certified Medication Aides in Residential Care Facilities.** Iowa Admin Code rule 481—57.19(2)(f), requiring a person who has written documentation of certification as a medication aide in another state complete a department-approved nurse aide competency examination and medication aide challenge examination, is suspended to the extent the individual is able to demonstrate competency in safe medication administration. (04/14/20)

• **In-Person Visitation in Residential Care Facilities.** Iowa Admin. Code rule 481—57.26 is suspended to the extent those provisions permit in-person visits in residential care facilities. (04/14/20)