



ORDER AUTHORIZING ABBREVIATED TRAINING OF CERTIFIED NURSE AIDES IN FACILITIES SUBJECT TO CNA TRAINING BANS

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

1. The Department, as the CMS-designated State Agency and regulatory authority for Indiana SNFs and NFs, has determined there is a crisis-level shortage of CNAs available to work in long-term care facilities during the COVID-19 public health emergency (“PHE”).
2. In response to this crisis, the Department on October 24, 2020 issued two orders authorizing modified CNA training (“Abbreviated Training”) as a means to help increase the pool of CNAs available to work in long-term care facilities:
 - a. The first, an Order to Facilitate Certified Nurse Aide Training During the COVID-19 Public Health Emergency (“Order to Facilitate”) (amended October 29, 2020) temporarily reallocates and reduces the total number of hours of training required to become a CNA.
 - b. The second, an Order to Expedite Certified Nurse Aide Training for Personal Care Attendants and Temporary Nurse Aides (“Order to Expedite”) (amended October 29, 2020 and corrected November 6, 2020) authorizes shortened training for CNA candidates already trained and qualified as Personal Care Attendants (“PCAs”) or Temporary Nurse Aides (“TNAs”) under prior Department orders. This includes credit for completed training to become a PCA or TNA (see Order to Expedite ¶ 2.a.), additional training (¶ 2.b.), and facility-based work experience (¶ 2.c.).
3. Neither the Order to Facilitate nor the Order to Expedite accounts for whether Abbreviated Training is or was offered by or in a skilled nursing facility (“SNF”) or nursing facility (“NF”) subject to a training ban under 42 U.S.C. §§ 1395i-3(f)(2)(B)(iii)(I) or 1396r(f)(2)(B)(iii)(I), repeated as combined at 42 CFR § 483.151(b)(2) (“CNA Training Ban”). A CNA Training Ban prevents CNA training from being offered either in or by a SNF/NF that has received certain

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CMS sanctions within the past two (2) years (a “Banned Facility”). However, 42 U.S.C. §§ 1395i-3(f)(2)(C) and 1396r(f)(2)(C) also provide that a CNA Training Ban:

shall not apply to a program offered in (but not by) a nursing facility [under Title XIX] or skilled nursing facility [under Title XVIII] in a State if the State – (i) determines that there is no other such program offered within a reasonable distance of the facility, (ii) assures, through an oversight effort, that an adequate environment exists for operating the program in the facility, and (iii) provides notice of such determination and assurances to the State long-term care ombudsman. (*emphasis added*)

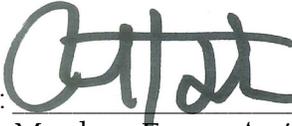
4. The Department is aware of concerns that providers may face negative consequences in the future for employing CNAs who have gone through all or part of an Abbreviated Training at a Banned Facility. To address these concerns and clarify the basis of the Order to Facilitate and Order to Expedite, the Department, pursuant to 42 U.S.C. § 1395i-3(f)(2)(C) and 42 USC § 1396r(f)(2)(C), determines, waives, and orders as follows:
 - a. An approved CNA training program may offer and conduct Abbreviated Training in full or in part in a Banned Facility, provided (i) the Abbreviated Training is not offered by the Banned Facility, and (ii) no other approved program (the “Other Program”) is offering Abbreviated Training within a reasonable distance of the facility. For purposes of this Order, the Other Program is deemed to be “within a reasonable distance of the facility” only if it is located at the same physical site and address as the Banned Facility. If the Other Program is not located at the same physical site and address, it is not within a reasonable distance of the facility, and an approved CNA training program may conduct Abbreviated Training in the Banned Facility.
 - b. The Department assures and will continue to assure through oversight efforts that an adequate environment exists for operating an Abbreviated Training program in each affected SNF/NF.
 - c. Notice of the determinations and assurances in this Order shall be delivered to the State Long-term Care Ombudsman immediately following its issuance.
 - d. The terms of this paragraph 4 are effective retroactively as of March 21, 2020, to ensure that any and all Abbreviated Training conducted during the PHE may satisfy the requirements of the Order to Facilitate and Order to Expedite.



5. To the extent part of any Abbreviated Training was provided by a Banned Facility, that part must be repeated by an approved CNA training program in accordance with this Order.

SO ORDERED as of the date set forth below.

Kristina Box, MD, FACOG
State Health Commissioner

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

Date: November 6, 2020