



STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
Aging and Long-Term Support Administration
PO Box 45050, Olympia, WA 98504-5600

January 28, 2015

ALTSA: NH #2015-002
USE OF NURSING ASSISTANTS – FOUR MONTH RULE

Dear Nursing Facility/Home Administrators and Interested Parties:

This supersedes ALTSA: NH #2014-025.

Following the publication of the December 4, 2014 “Dear Administrator” letter to facilities on the 120 Day Rule, many of you contacted our staff about the guidance that we provided in that letter.

After careful review by staff, we have decided to revise the guidance in the December 4, 2014 letter and provide this letter to clarify the state and federal requirements about employing Nursing Assistants Registered (NARs) in licensed nursing homes and Medicaid certified nursing facilities. Previously, we have referred to the Four Month Rule as the 120 Day Rule; to be consistent with the Federal Regulations, it is more accurate to refer to the required time frame as Four Months, rather than 120 Days.

The citations in this letter refer to the federal Code of Federal Regulations (CFR), and the Washington State Administrative Code (WAC).

Nursing Assistants – General Facility Requirements

It is the nursing facility’s responsibility to ensure that any employees (other than licensed nursing staff) who provide direct resident care:

- (1) Are nursing assistants-certified (NAC) in Washington State or are enrolled as students in a DSHS-approved nursing assistant program; and
- (2) Meet other requirements applicable to individuals performing nursing-related duties in a nursing facility. (WAC 388-97-1660).

An individual who is not an NAC (or licensed nurse) cannot be employed as a nursing assistant for more than four months, from the first date of hire as a nursing assistant.

Nursing Assistants – First Four Months of Employment

During the first four months of employment a nursing facility must not use an individual as a nursing assistant unless he or she:

- (1) Is a full-time employee in a State-approved training and competency evaluation program;
- (2) Has demonstrated competence through satisfactory participation in a State-approved nursing assistant training and competency evaluation program;
- (3) Is already an NAC or licensed nurse; or
- (4) Has been deemed or determined competent as provided in CFR 483.150 (a) and (b).

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Within three days of employment as a nursing assistant, an individual who is not an NAC or licensed nurse must apply to the Department of Health for registration as an NAR. (WAC 388-97-1660)

Before a student nursing assistant has any direct contact with a resident, he or she must complete at least 16 hours of supervised practical training in the following:

- Communications and interpersonal skills;
- Infection control;
- Safety/emergency procedures including the Heimlich maneuver;
- Promoting resident independence; and
- Respecting resident rights.

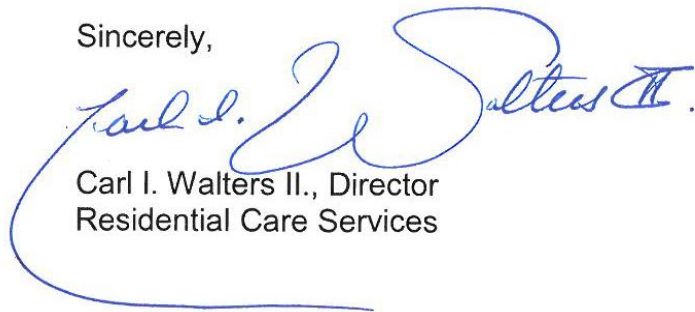
After completion of the minimum 16 hours of training, nursing assistants who have been trained and determined to be proficient in certain tasks, may perform those tasks, as long as a licensed nurse is *directly supervising*, the NAR's performance of the tasks. "Directly supervising" means that the supervising nurse is on the premises and is quickly and easily available to provide necessary assessments and other direct care and to oversee supervised staff. (WAC 388-97-1080)

Nursing Assistants – After Four Months of Employment

A nursing facility may not use any individual (other than licensed nursing staff) to work as a nursing assistant in the facility for *more than four months*, unless the individual is competent to provide nursing and nursing related services; and (1) has completed a training and competency evaluation program, or a competency evaluation program approved by the State as meeting the requirement of CFR 483.151-483.154 or (2) has been deemed competent under 42 CFR 483.150 (a) and (b).

Thank you for your continued commitment to nursing home residents. If you have any questions regarding this topic, please contact Susan Worthington, NATCEP Manager, at (360) 725-2596 or worthsq@dshs.wa.gov.

Sincerely,

A handwritten signature in blue ink, reading "Carl I. Walters II.", is written over a large, stylized blue loop that extends from the signature down to the text below.

Carl I. Walters II., Director
Residential Care Services

"Transforming Lives"