



STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
Aging and Long-Term Support Administration
PO Box 45600, Olympia, Washington 98504-5600

April 8, 2020

AL TSA: NH #2020-017
UPDATED COVID-19 INFORMATION:
USE OF ALTERNATE SPACE AS RESIDENT ROOMS,
GOVERNOR PROCLAMATIONS AND CMS WAIVERS

Dear Nursing Facility/Home Administrator:

The purpose of this letter is to provide information regarding a number of topics including: The process facilities must follow to utilize alternate spaces as resident rooms, updated Centers for Medicare and Medicaid Services (CMS) 1135 waivers, and new proclamations from the office of the Governor related to the COVID-19 outbreak.

Process for using an alternate space as a resident room

CMS is waiving requirements under 42 CFR §483.90 to allow the use of space for resident beds in a long term care facility that is not normally used as a resident room. This waiver can only be used if needed to provide surge capacity. Under the waiver, facilities may use activity rooms, meeting rooms, and other spaces, as resident rooms as long as residents can be kept safe and comfortable.

Although CMS has waived the federal regulations to permit use of alternate rooms as resident rooms, the state has not waived statutes (RCW) and rules (WAC) related to resident room requirements. The Residential Care Services (RCS) Director has the ability to offer exemptions to WAC, but not to RCW, so at a minimum, the space will need to meet the resident room requirements outlined in RCW 74.42.490, which states:

Each resident's room shall:

- (1) Be equipped with or conveniently located near toilet and bathing facilities;*
- (2) Be at or above grade level;*
- (3) Contain a suitable bed for each resident and other appropriate furniture;*
- (4) Have closet space that provides security and privacy for clothing and personal belongings;*
- (5) Contain no more than four beds;*
- (6) Have adequate space for each resident; and*
- (7) Be equipped with a device for calling the staff member on duty.*

For any home that would like to utilize the CMS waiver, please send RCS a letter outlining what space will be used, a brief description of the space, how the above requirements will be met, and how resident privacy during care will be provided. Given the nature of the current crisis, RCS also asks that the home clearly outline how the space will allow for quality infection control processes (for example, is there a sink located in the space?). If the home is not at full capacity, please outline how many currently licensed rooms are available to be filled before the alternate option would need to be used.

Send the request to Trish Harmon (Tricia.Harmon@dshs.wa.gov), Candy Goehring (Candace.Goehring@dshs.wa.gov), and Amy Abbott (amy.abbott@dshs.wa.gov). RCS is aware of the urgency of the issue in our state, and will work as quickly as possible to review these requests and provide a response.

Governor Inslee Proclamations

On March 26, 2020, Governor Inslee issued proclamation 20-32, and on March 30, 2020, he issued proclamations 20-37 and 20-38: [Proclamation web page](#)

- Proclamation 20-32 waives multiple Department of Health (DOH) statutes and rules concerning licensing requirements for many healthcare providers licensed by DOH, including, nurses, nursing assistants, and nursing assistants – nursing homes. The waiver relieves some healthcare providers of the obligation to complete education requirements prior to obtaining an initial or a renewed license, and extends all health profession license expiration dates to September 30, 2020 for licenses up for renewal between April 1 and September 30, 2020.
- Proclamation 20-37 waives RCW 18.88A.030(2)(a) and WAC 388-97-1660(3)(a)(i), which requires nursing assistants to complete training and testing to become certified within four months of employment with a nursing home. The proclamation is effective until April 29, 2020.
- Proclamation 20-38 waives certain statutes and rules related to construction review services (CRS) and Certificate of Need (CON) requirements. The intent of the proclamation is to expedite the process of increasing bed capacity or opening a new facility, and applies to nursing homes and assisted living facilities. It is important to note the waivers apply only for projects undertaken to provide surge capacity during the COVID-19 emergency. Homes opened under the expedited process that wish to stay open or homes that increased capacity that want to remain at a higher licensed capacity after the emergency will need to obtain CON and CRS approval after the waiver expires, on April 29, 2020.

1135 Blanket Waivers

Detailed information on the waivers is located here: <https://www.cms.gov/about-cms/emergency-preparedness-response-operations/current-emergencies/coronavirus-waivers>

CMS is authorized under the Social Security Act, to waive requirements during an emergency. During the earlier part of the COVID-19 outbreak, CMS issued waivers or suspensions for the three day hospitalization requirement, the resident assessment (MDS) timeframe requirement, and parts of the Preadmission Screening and Resident Review (PASRR) requirements.

Recently they have waived additional requirements:

- **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.
- **Physical Environment.**
 - Provided the state has approved the location as sufficiently safe and comfortable, CMS is waiving requirements under 42 CFR §483.90 to allow a skilled nursing facility (SNF) to be temporarily certified in the event there are needs for isolation processes for COVID-19 positive residents.
 - CMS is waiving requirements under 42 CFR §483.90 to allow the use of space in a long term care facility that is not normally used as a resident room to be used to accommodate beds for residents if needed to provide surge capacity. See the top of the letter for more information.
- **Resident Groups.** CMS is waiving the requirements at 42 CFR §483.10(f)(5), which ensures resident can participate in-person in resident groups.
- **Training and Certification of Nurse Aides.** CMS is waiving the requirement at 42 CFR §483.35(d)(1)(i) which requires a SNF or NF may not employ a nurse aide longer than four months unless they meet training requirements. Facilities must continue to ensure the nurse aides are able to demonstrate competency.
- **Physician Visits.** CMS is waiving the requirement that physicians perform in-person visits, and allow visits to be conducted, as appropriate, via telehealth options.
- **Resident Roommates and grouping.** CMS is waiving 42 CFR §483.10(e)(5),(6), and (7), that provides 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 waiver is

solely for the purpose of grouping or cohorting residents with respiratory illness symptoms and/or confirmed COVID-19, and separating them from asymptomatic residents.

- **Resident Transfer and Discharge.** CMS is waiving parts of the discharge and transfer requirements to allow a long term care facility to transfer or discharge residents to another long term care facility solely for the following cohorting purposes:
 - Transferring residents with symptoms of or a confirmed diagnosis of COVID-19 to another facility dedicated to the care of such residents.
 - Transferring residents without symptoms of COVID-19 or confirmed not to have COVID-19 to another facility dedicated to the care of such residents to prevent them from acquiring COVID-19.
 - Transferring resident without symptoms of a respiratory infection to a facility that agrees to accept the resident to observe for symptoms of respiratory illness over 14 days.

There are exceptions to the waiver detailed in the 1135 waiver, and facilities are responsible to ensure all transfers and discharges are conducted in a safe and orderly manner, and each resident's health and safety is protected.

Return to Work Criteria for Healthcare Workers with Exposure to or Confirmed COVID-19

RCS received questions from many providers about this, and would like to provide the links to the recommendations from the Centers for Disease Control and Prevention (CDC).

- CDC criteria for return to work: <https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-risk-assesment-hcp.html>
- CDC risk assessment and management of healthcare personnel with potential exposure to COVID-19: <https://www.cdc.gov/coronavirus/2019-ncov/healthcare-facilities/hcp-return-work.html#practices-restrictions>

Thank you for your continued commitment to resident health and safety. If you have any questions, please contact [Lisa Herke](#), Nursing Home Policy Program Manager at (509) 209-3088.

Sincerely,


Candace Goehring, Director
Residential Care Services

DSHS: "Transforming Lives"