



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

ROY COOPER • Governor

KODY H. KINSLEY • Secretary

MARK PAYNE • Director, Division of Health Service Regulation

MEMORANDUM

(Memo #P0007)

TO: N.C. Licensed Adult Care Home & Family Care Home Providers

FROM: Megan Lamphere, Chief *ML*

DATE: August 8, 2022

RE: Waiver/Modification of Enforcement of Adult Care Home and Family Care Home Licensing Rules 10A NCAC Subchapters 13F & 13G pursuant to the authority granted in the 2022 Appropriations Act

On April 24, 2020 and December 3, 2020 memorandums were issued by the North Carolina Department of Health and Human Services (DHHS), Division of Health Service Regulation (DHSR) that waived or modified specific legal or regulatory constraints that would prevent or impair certain DHSR regulated health care services during the North Carolina State of Emergency declared in Executive Order 116.

The April 24, 2020 memorandum and waivers were issued at the request of the North Carolina Emergency Management Director, Mike Sprayberry, pursuant to N.C. Gen Stat. § 131D-7 and Executive Order 116. Section 1 of Executive Order 130 and Section 2 of Executive Order 139 (extended by Executive Order Nos. 144, 148, 152, 165, 177, 193, 211, 225, 236, 245 and 256) granted by the Governor, with the concurrence of the Council of State were additionally additional authority for the waivers and modifications in the April 24, 2020 memorandum.

On December 3, 2020, DHSR issued a memorandum superseding the April 24, 2020 memorandum. Pursuant to Section 1 of Executive Order 148, the waivers and modifications in the December 3, 2020 memorandum remain in effect for thirty (30) days following termination of the Executive Orders extending the authority for the waivers. Executive Order 256 was not extended and expired on July 15, 2022; therefore, the waivers and modifications issued on June 10, 2020 will expire on August 14, 2022.

On July 7, 2022, North Carolina Session Law 2022-74 (the 2022 Appropriations Act), was enacted and included legislation for emergency flexibilities for certain facilities and services regulated by DHSR. Section 9E.2.(b) added to language to North Carolina General Statute § 131D-7, that granted authority to DHSR to temporarily waive any rules adopted by the Medical Care Commission pertaining to Adult Care Homes and Family Care Homes during a declaration of a public health emergency by the Secretary.

Pursuant to the authority vested in the United States Secretary of Health and Human Services (Secretary) under Section 319 of the Public Health Service Act, determined that a public health emergency exists as a result of the consequences of the Coronavirus Disease 2019 (COVID-19 Public Health Emergency) since January 27, 2020. Former Secretary Azar previously renewed the determination that a public health emergency exists and has existed since January 27, 2020 nationwide on April 21, 2020, July 23, 2020, October 2, 2020, and January 7, 2021

NC DEPARTMENT OF HEALTH AND HUMAN SERVICES • DIVISION OF HEALTH SERVICE REGULATION

ADULT CARE LICENSURE SECTION

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and Secretary Becerra renewed the determination on April 15, 2021, July 19, 2021, October 15, 2021, January 14, 2022, April 12, 2022, and July 15, 2022.

In response to the COVID-19 Public Health Emergency and after careful consideration, DHSR is waiving or modifying enforcement of the regulatory requirements contained in this memorandum. DHSR's intent in issuing the following waivers is to protect the health, safety, and welfare of residents and visitors located in North Carolina and provide necessary relief to adult care homes and family care homes regulated under 10A NCAC Subchapters 13F and 13G in responding to the COVID-19 pandemic and to allow for more efficient treatment of residents.

The following blanket waiver is issued pursuant to the 2022 Appropriations Act and will expire at the end of the COVID-19 Public Health Emergency or at such time as DHSR determines that an emergency no longer exist or at any time as determined by DHSR:

Personal Care Training and Competency, This extension remains in place, superseding 10A NCAC 13F .0501(b) and 10A NCAC 13G .0501(b). Employees of adult care facilities who provide personal care or who directly supervise those who provide personal care shall now have **nine (9) months** after the date of hiring to complete the 80-hour personal care training and competency evaluation program. However, facilities must still assure necessary supervision and on-the-job training for the employee, as provided in 10A NCAC 13F .0501(d) and 10A NCAC 13G .0501(g), until such time as the employee has successfully completed the personal care training and competency evaluation program. Documentation of on-the-job training shall be maintained in the employee's personnel record.

Should you have any questions about this memorandum or need additional information, please contact Megan Lamphere, Section Chief of Adult Care Home Licensure Section.

cc: Julie Cronin
Mark Payne
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