

Hospice and Home Health COVID-19 Call  
06/18/2020

1. The 1135 Waiver currently allows NP, CNS and PAs the ability to order home care and review plan of care
  - a. CMS is in the process of making this a permanent change (federally);
  - b. State licensure rules still apply but are currently waived due to COVID-19;
  - c. However, the emergency rule shall terminate upon the withdrawal or termination of the Executive Order.
  - d. Permanent State licensure changes require legislative action.
  
2. What currently allows NPs and CNS to operate per 1135 waivers in Oklahoma?
  - a. Changes to 310 Chapter 2 Pandemic Emergency Rules Subchapter 3 (310:2-3-8(f)(2));
  - b. Authority for agencies to comply with this is captured in Title 310, Chapter 2 under Pandemic Emergency Rules (310:2-3-8(f)(2) {The Department may reduce or waive staffing requirements and supervisory requirements...});
  - c. We are still awaiting signature by the Governor;
  - d. Again, the emergency rule shall terminate upon the withdrawal or termination of the Executive Order.
  
3. Current executive order 2020-20 was amended and filed Friday, June 12, 2020 and includes the previous language that “All occupational licenses issued by any agency, board, or commission of the State of Oklahoma that expire during this emergency shall be extended. All occupational licenses extended during this Order will expire fourteen days following the withdrawal or termination of this order.”
  - a. This gives us the ability to continue the extension of licensure renewal;
  - b. However, we are accepting and processing licensure renewals as they come in;
  - c. For those agencies that continue to express concerns and fear that they will fall into that fourteen-day expiration period, you can renew now – the executive order does not prevent licensure renewal
  
4. Recurring questions over the last two weeks:
  - a. Question: What if my agency’s license expires after emergency orders are lifted?  
Answer: Again, we are processing renewal applications as they come in, you don’t have to wait until the EO ends.
  - b. Question: Why is the State of Oklahoma trying to prevent nurse practitioners from

operating per federal guidelines?

Answer: (already covered above). Also, when licensure and federal guidelines differ, the most stringent applies.

c. Question: If we get a COVID-19 positive patient, what should we do?

Answer: If the patient had a diagnosis of COVID on admittance, reporting was completed by the lab and/or the testing entity. Operate per your infection control policies, follow CDC Guidance; contact our Acute Disease Department for specifics and information on contact tracing.

5. Question: When will you (OSDH) return to regular survey activities?

Answer: Routine survey activities were temporarily suspended by CMS.

- Infection Control related surveys are currently being conducted.
- CMS has provided little guidance for return to regular survey activities
- CMS guidance was initially specific to COVID/IC related activities
- Modified recertification surveys will resume in the next few weeks but may look different than traditional recertification surveys
- Routine licensure surveys are currently on hold.
- State licensure requirements will not be ignored during survey activities
- We will return to completing initial licensure surveys in the very near future.
- Accrediting Organizations have returned to some routine activities.

6. Question: Can nursing homes require hospice employees to be tested for COVID before allowing entry?

Answer: Yes, please note that this will most likely be at the expense of the agency, not the LTC facility.

7. Question: How do state and federal rules differ for NP, CNS and PAs?

Answer: COPs defer to State rules when State rules are more stringent: In accordance with section 1861(aa)(5) of the Act, NPs, CNSs, and PAs are required to practice in accordance with state law in the state in which the individual performs such services.

Individual states have varying requirements for conditions of practice, which determine whether a practitioner may work independently without a written collaborative agreement or supervision from a physician, or whether general or direct supervision and collaboration is required. HHAs or other practitioners should check with the relevant state licensing authority websites to ensure that practitioners are working within their scope of practice and prescriptive authority.



#### General Information:

Nurse Practitioners and Physician Assistants writing orders applies to Home Care agencies only, not to Hospice agencies.

The County Health Departments/OSDH Central office are COVID testing, if you or an employee needs a test you can call 211 to locate the closest testing facilities.

#### Questions and Answers:

Question: CMS guidance put out new memo for opening LTC facilities to Hospice, what is the State's opinion?

Answer: There is national CMS guidance and then there is state guidance. The facility is ultimately trying to protect the population. There is a phase approach to opening, and it is different than City opening. There are numbers at each individual LTC facility must be at before they are able to receive clearance. You are welcome to call our office 405-271-6576 if you need some help, have questions or concerns.