Effective August 1, 2001

Waiver of the Nurse Aide Training and Competency Evaluation program Prohibition in Certain Nursing Facilities

Introduction

Federal legislation permits a state to waive the 2-year prohibition of the Nurse Aide Training and Competency Evaluation Program (NATCEP) offered **in** (not by) certain nursing facilities of the state:

- Determines that there are no other such programs offered within a reasonable distance of the facility:

  NOTE: Reasonable distance means 20 miles or 30 minutes.

- Assures, through an oversight effort, that an adequate environment exists for operating the program in the facility; and

- Provides notice of such determination and assurances to the state long-term care ombusdman.

The NATCEP waiver is designed to minimize the consequences of losing the benefits of an on-site nurse aide training program, especially to those facilities located in rural areas where another outside training source is inaccessible to nurse aides.

General rules for the waiver request

A. The Center for Quality Health Care Services and Consumer Protection (the Center) can waive the prohibition on NATCEP only for programs offered **in** a facility.

B. The law does not apply to the prohibition of the NATCEP offered by a facility. The 2-year loss of the NATCEP by these facilities cannot be waived. However, these facilities are allowed to contract with an approved sponsor of nurse aide training to provide the NATCEP in the facility.

C. A facility may request a waiver when the loss of the NATCEP poses a special hardship to the students in the class provided in the facility and to the facility to maintain essential services to residents.

D. If a facility has a substandard quality of care (SQC) a second time within the original 2-year prohibition period, a granted waiver will be rescinded and no new request for waiver may be submitted until the 2-year prohibition period created by the second SQC ends.

E. Upon finding that a hardship exists, the Center may waive the NATCEP prohibition.

F. The Center may rescind the waiver if: 1) a second SQC is rendered within the 2-year prohibition period, 2) additional information becomes known which alters the basis for the original decision, 3) the facility fails to meet any conditions attached to the waiver, or 4) the environment for the program becomes inadequate.

G. Consideration for the waiver is initiated when a written request is submitted to the Director, Center for Quality Health Care Services and Consumer Protection.

H. The request for waiver must describe in detail the special hardship created by the prohibition of the facility's NATCEP.

I. The Center may attach conditions to the granting of the waiver in order to ensure an adequate and safe environment.

J. If the waiver is denied, the prohibition to the NATCEP is enforced until such time as the facility wins an appeal of the prohibition. Appeals are filed through the U.S. Health and Human Services Departmental Appeals Board.

K. Once the 2-year prohibition to the NATCEP has expired, the facility may again request NATCEP program approval.

L. The nursing facility may at any time withdraw the request for waiver.

Procedure for requesting a NATCEP waiver

1. The request for waiver must be in writing and sent to:

Nancy R. Hofheimer
Director
Center for Quality Health Care Services and Consumer Protection
Virginia Department of Health
3600 West Broad Street, Ste. 216
Richmond, VA 23230

Only written requests for NATCEP waiver will be considered.

2. The written request shall include, but shall not be limited to:

   a. The size of the class affected by the prohibition;
   b. The location and distance from the facility of all alternative training sites or programs within a reasonable distance;
   c. If multiple training alternatives are available, the selection process for the preferred location or source;
   d. Reasons why alternative training sites or resources are not appropriate for facility staff participation;
   e. The effect of prohibition on the facility to maintain essential services to residents; and
   f. Action taken by the facility to ensure an adequate environment is maintained for operating the program.

3. The decision to grant a waiver will be based solely on the information provided in the waiver request. Therefore, facilities are encouraged to provide detailed information regarding the need for NATCEP waiver.

4. The facility will be informed in writing if the waiver is granted or denied.