



COMMONWEALTH of VIRGINIA

M. Norman Oliver, MD, MA
State Health Commissioner

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WAIVER OF 12VAC5-381-330(D): IN-SERVICE TRAINING OF HOME CARE ORGANIZATION HOME ATTENDANTS

On March 12, 2020, Governor Ralph Northam declared a state of emergency due to novel coronavirus (COVID-19). In the declaration, Executive Order 51, the Governor directed state agencies to render appropriate assistance to prepare for and mitigate the effects of the COVID-19 outbreak. In doing so, he ordered authorization for the heads of executive branch agencies, on behalf of their regulatory boards as appropriate and with the concurrence of their Cabinet Secretary, to waive any state requirement or regulation.

On March 13, 2020, President Donald Trump issued a proclamation declaring that the COVID-19 outbreak in the United States constitutes a national emergency under sections 201 and 301 of the National Emergencies Act (50 U.S.C. 1601 et seq.). On that same day, pursuant to section 1135(b) of the Social Security Act (Act), the Secretary of the U. S. Department of Health and Human Services invoked his authority to waive or modify certain requirements of titles XVIII, XIX, and XXI in response to the COVID-19 pandemic to ensure that sufficient health care items and services are available to meet the needs of individuals enrolled in the Medicare and Medicaid programs.

Pursuant to section 1135(b) of the Social Security Act, the U. S. Centers for Medicare and Medicaid Services issued a waiver to 42 C.F.R. § 484.80(d), which requires that home health agencies must assure that each home health aide receives 12 hours of in-service training in a 12-month period.

Requirement: Subsection D of 12VAC5-381-330 states, in relevant part, "Relevant in-service education or training for home attendants shall consist of at least 12 hours annually."

Waiver: Notwithstanding 12 VAC 5-381-330(D) and 12 VAC 5-381-360(G), the requirement for home attendants to receive relevant in-service education or training of at least 12 hours annually is suspended in accordance with the CMS COVID-19 Emergency Declarations Blanket Waivers for Health Care Providers.

Questions regarding this document or the information contained within should be addressed to the Director of the Office of Licensure and Certification, Robert A. K. Payne, JD, by email at Robert.Payne@vdh.virginia.gov or by phone at (804) 367-2102.

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