



Sandra Shewry
Acting Director
Erica S. Pan, MD, MPH
Acting State Health Officer

State of California—Health and Human
Services Agency
**California Department of
Public Health**



GAVIN NEWSOM
Governor

December 21, 2020

AFL 20-47.1

TO: Hospice Providers

SUBJECT: Suspension of Regulatory Enforcement of Hospice Requirements
(This AFL supersedes AFL 20-47)

AUTHORITY: Executive Order N-35-20 (PDF)

All Facilities Letter (AFL) Summary

- This AFL notifies hospice providers of a temporary waiver of specified regulatory requirements due to the state of emergency related to the Coronavirus Disease 2019 (COVID-19) outbreak.
- This revision rescinds prior authorization to begin operations based solely on submission of an application and clarifies that a hospice provider seeking initial licensure must receive approval before providing care.

Pursuant to Governor Newsom's Executive Order N-35-20 (PDF), and consistent with federal guidance issued by the Centers for Medicare and Medicaid Services (CMS), the Director of the California Department of Public Health (CDPH) may waive any of the licensing and staffing requirements of Chapter 8.5 of Division 2 of the Health and Safety Code (HSC) and accompanying requirements by the California Hospice and Palliative Care Association, as published in the "Standards for Quality Hospice Care 2003" (SQHC).

CDPH is temporarily waiving specified licensing requirements and suspending regulatory enforcement for the following requirements as specified below:

Licensure

1. HSC sections 1747 (a) and (b)

A hospice that has submitted an application for any of the following may begin providing care prior to obtaining approval and licensure by CDPH:

- Additional location
- Change of Service

Effective the date of issuance of this revised AFL, hospice applicants seeking initial licensure must be licensed and receive approval prior to providing care.

2. HSC section 1751 (c) and 1754

- Any licensee that has applied to CDPH for renewal of a license, or for reinstatement of a license that has been voluntarily suspended, may begin or continue providing care prior to obtaining approval of the renewal or reinstatement by CDPH.

Administration

3. SQHC Article 6, section 6.3 (A)

- Due to the state of emergency, health examinations, tuberculosis testing, and background checks for new employees are temporarily suspended. The hospice shall ensure each employee completes these actions as soon as practicable but no later than 30 days after the expiration of the state of emergency.

Services

4. HSC sections 1746 (d)(6) and (g) and 1749 (b)(5), SQHC Article 2, sections 2.1, 2.8, and Article 5, section 5.8

- Hospices are temporarily not required to provide or make provision for volunteer services.

5. HSC section 1749 (b)

- Hospice providers will have flexibility in how they provide basic services to patients. Basic services include skilled nursing services, social services/counseling services, medical direction, bereavement services, volunteer services, inpatient care arrangements, and home health aide services. Services may be provided via telehealth or other remote methods. This will allow for, but is not limited to, check-in calls, health screening calls, and video conferencing.
- Hospice providers may use healthcare professionals regulated under Division 2 of the Business and Professions Code and authorized by the Department of Consumer Affairs and the applicable licensing boards to provide services for the duration of the declared emergency.

6. HSC section 1747 (d)

- Small and rural hospices may temporarily provide services to more than 50 patients per year.

Additionally, CMS has issued Hospice: CMS Flexibilities to Fight COVID-19 (PDF) providing temporary regulatory waivers to certified hospices, allowing maximum flexibility to respond to the COVID-19 pandemic.

CDPH will continue to investigate and conduct enforcement activities for allegations of the most serious violations impacting health and safety, pursuant to Executive Order N-27-20 (PDF).

CDPH understands the importance of ensuring the health and safety of all Californians and maintaining vital access to healthcare services. CDPH encourages providers to implement contingency plans to address staff absenteeism and find innovative ways to continue providing care to patients. CDPH will continue to promote quality healthcare, provide technical assistance, and support compliance with core health and safety requirements, pursuant to Executive Order N-27-20 (PDF). CDPH is taking this unprecedented action due to the significant challenges California's health care system is facing as a result of the COVID-19 outbreak. As a result of this temporary waiver, hospice providers do not need to submit individual program flexibility requests for the regulations specified above.

This waiver is valid until the end of the declared emergency.

If you have any questions about this AFL, please contact your local district office.

Sincerely,

Original signed by Heidi W. Steinecker

Heidi W. Steinecker

Deputy Director

Resources:

- Executive Order N-35-20 (PDF)
- Executive Order N-27-20 (PDF)
- CDPH Health Care Facilities Application
- COVID-19 Health Care System Mitigation Playbook (PDF)
- Hospice: CMS Flexibilities to Fight COVID-19 (PDF)

Center for Health Care Quality, MS 0512 . P.O. Box 997377 . Sacramento, CA
95899-7377

(916) 324-6630 . (916) 324-4820 FAX
Department Website (cdph.ca.gov)



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