



State of Tennessee
Health Facilities Commission
665 Mainstream Drive, 2nd Floor, Nashville, TN 37243
www.tn.gov/hsda
Phone: 615-741-7221

TRANSMITTAL MEMO

TO: Logan Grant LG/JC Date: 9/14/2022
Executive Director

THROUGH: Jim Christoffersen J.C. w/permission NF Date: 9/7/2022
General Counsel

Nathaniel Flinchbaugh NF Date: 9/7/2022
Deputy General Counsel

FROM: Caroline R. Tippens CR Date: 9/07/2022
Director, Licensure & Regulation

DATE: September 7, 2022

SUBJECT: State Agency Authority to Waive Nurse Aide Training and Competency Evaluation Program (NATCEP/CEP) Loss.

BACKGROUND:

The NATCEP/CEP is a statutory requirement and is the standardized training program that all nurse aides must meet to work in a Skilled Nursing Facility (SNF), Nursing Facility (NF) or a dually participating SNF/NF. States operate the approval process for the NATCEP/CEP programs.

Sections 1819(f)(2)(B)(iii)(I) and 1919(f)(2)(B)(iii)(I) of the Social Security Act (the Act) prohibit the approval, in certain cases, to operate a NATCEP/CEP program for two (2) years based on survey findings or waivers of minimum requirements for licensed nurse coverage. Specifically, a facility may not operate a NATCEP/CEP program for two (2) years if:

1. It is operating under a waiver for coverage by licensed nurses;
2. It has been subject to an extended survey or partial extended survey;
3. It has been assessed a Civil Money Penalty (CMP) of at least \$10,483 as adjusted by 45 CFR 102; or,
4. Has been subject to imposition of a denial of payment, temporary manager, or termination.

If a facility loses the authority to operate a NATCEP/CEP program, in some cases, they may regain the ability to operate their program prior to end of the two (2) year ban through the following authorities or waivers:

State Authority to Waive NATCEP/CEP Disapproval Sections 1819(f)(2)(C) and 1919(f)(2)(C) of the Social Security Act (the Act) provide waiver authority for NATCEP/CEP if the State:



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1. Determines that there is no other such program offered within a reasonable distance of the facility,
2. Assures, through an oversight effort, that an adequate environment exists for operating the program in the facility, and,
3. Provides notice of such determination and assurances to the State long-term care ombudsman. The State is responsible for development of policies and procedures to implement this waiver authority. For example, the state may require that the facility submit a specific waiver request to the State.

The State will make the final determination after considering the recommendations and facts of the case as provided by the facility and in accordance with each of the above requirements, as operationalized by the State. The State's authority to waive the NATCEP/CEP loss can be granted under any of the reasons described above, provided that the statutory requirements and any additional programmatic requirements established by the State are met.

See CMS S&C: 18-02-NH attached hereto as Exhibit 1.

This policy is being promulgated to meet the requirements of S&C: 18-02-NH; to increase the opportunity for licensed nursing homes which have lost their NATCEP/CEP to again provide training courses; and to increase the number of available certified nurse aide candidates.

POLICY:

Licensed nursing homes must submit a written request for waiver of NATCEP/CEP program loss to: Nurseaid.Health@tn.gov which must meet the following criterion:

1. No available NATCEP/CEP programs within thirty (30) mile radius of facility;
2. Plan of process improvement for the nurse aide training program following the loss of the nurse aide training program;
3. Provide the NATCEP/CEP pass/fail rates one (1) year prior to loss of nurse aide training program;
4. A copy of the survey history since loss of nurse aide training program;
5. Detailed explanation as to how the facility corrected deficiencies which led to the loss of the nurse aide training program;
6. The timeframe of the request of the waiver must be six (6) months or longer since loss of nurse aide training program; and
7. The SSA must also verify current compliance status and outstanding complaints prior to issuing the waiver.

Health Facilities Commission (HFC) staff will review waiver requests within one (1) week of receipt. A formal written response to the requestor will be provided within one (1) week of HFC staff's final review.

A waiver request will not be granted if the following situation(s) exist:

1. It has been less than six (6) months since the facility lost its NATCEP program;



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2. The facility-based program has had a failure rate of below seventy-percent (70%) for three (3) consecutive quarters;
3. If there is another NATCEP within thirty (30) miles that will provide training to facility employees; and
4. The facility is not in substantial compliance at the time of the waiver request.