



Date: May 1, 2020

DQA Memo 20-008

To: All Nursing Home Providers

From: Ann Angell, Director
Bureau of Nursing Home Resident Care

Via: Otis Woods, Administrator
Division of Quality Assurance

**State Licensure Application for Temporary Nursing Facility Expansion Units
and Transfer Options during the COVID-19 Public Health Emergency**

Purpose

The purpose of this memorandum is to establish the process for Nursing Facilities and Skilled Nursing Facilities (collectively "nursing homes") to temporarily cohort, transfer, and/or discharge residents within and between facilities during the COVID-19 Public Health Emergency. The Centers for Medicare and Medicaid Services (CMS) has issued a number of blanket waivers under Section 1135 of the Social Security Act relieving certain regulatory burdens so that nursing homes can establish temporary COVID-19 locations in both nursing home and non-nursing home spaces to provide care for the duration of the Public Health Emergency.

This memorandum provides guidance on how the CMS blanket waivers affect the ability of nursing homes to establish temporary expansion and/or surge sites in light of applicable state laws and administrative rules. The temporary cohorting and transfer/discharge options discussed in this memorandum are intended to allow nursing homes flexibility to the extent necessary to maintain the health, safety and well-being of residents during the COVID-19 Public Health Emergency.

Types of Temporary Expansion/Transfer Scenarios

All nursing homes in Wisconsin are required to maintain licensure with the state. The Division of Quality Assurance (DQA) has identified 4 options for expanding nursing home beds and/or transferring nursing home residents related to COVID-19. The information below provides guidance on licensure application requirements and Physical Environment/Life Safety Code approval requirements based on the plan requested.

Internal Expansion Only Option

Create a COVID-19 designated unit within a licensed nursing home building for the use of current facility residents and/or newly admitted hospital residents with COVID-19.

(If the unit will be utilized by temporary COVID-19 positive residents from other nursing homes see “Transfer Option One” below.)

For nursing homes seeking to create or that have already established a COVID-19 designated unit, please email Elizabeth Laubenstein at Elizabeth.Laubenstein@dhs.wisconsin.gov to notify DQA of the facility’s COVID-19 designated unit. Approval by DQA is not required for a nursing home to create or begin using a designated unit for current residents and/or newly admitted hospital residents.

No additional state licensure is required unless there is a need for a temporary increase in licensed beds. Requests to temporarily increase the number of licensed beds in the facility must be approved by the Division of Medicaid Services (DMS). Please send requests for additional licensed beds to Elizabeth Laubenstein at Elizabeth.Laubenstein@dhs.wisconsin.gov and Rene Eastman at Rene.Eastman@dhs.wisconsin.gov.

No additional life safety code inspection or survey is required for this option. The physical environment is part of the nursing home and is regulated under the Life Safety Code requirements and Wis. Admin. Code ch. DHS 132, subchapter VIII.

However, where the contemplated expansion is not anticipated to substantially comply with the requirements of the NFPA 101 2012 edition of the Life Safety Code or Wis. Admin. Code ch. DHS 132, subchapter VIII, the nursing home should submit an interim life safety plan to DHSDQAPlanReview@dhs.wisconsin.gov setting forth how the proposed expansion will safeguard residents, staff and others in accordance with the expectations of NFPA 101 2012 edition with regards to Goals, Objectives and Fundamental Requirements as described under Chapter 4.

Any alteration or construction associated with creation of a designated unit may be subject to review and municipal permitting. Please contact David.Soens@dhs.wisconsin.gov and the local municipality to further address this work.

Transfer Options

Note that if a facility has already received approval from DQA for one of the following transfer options, it is not necessary to submit additional information at this time. New transfer option requests must follow this process. These requests will be expedited; actual processing time will be dependent on the complexity of the project.

Transfer Option One:

Two or more certified long term care facilities transfer residents between facilities to create a COVID-19 and non-COVID-19 facility. Allowed under Blanket Transfer Waiver without additional CMS approval. Each certified facility bills Medicare for the residents in their facility.

Note: Per CMS QSO Memo 20-25-NH, CMS is waiving requirements in 42 CFR 483.10(c)(5); 483.15(c)(3), (c)(4)(ii), (c)(5)(i) and (iv), (c)(9), and (d); and § 483.21(a)(1)(i), (a)(2)(i), and (b) (2)(i)

(with some exceptions) to allow a long term care (LTC) facility to transfer or discharge residents to another LTC facility solely for the following cohorting purposes:

- *Transferring residents with symptoms of a respiratory infection or confirmed diagnosis of COVID-19 to another facility that agrees to accept each specific resident, and is dedicated to the care of such residents;*
- *Transferring residents without symptoms of a respiratory infection or confirmed to not have COVID-19 to another facility that agrees to accept each specific resident, and is dedicated to the care of such residents to prevent them from acquiring COVID-19; or*
- *Transferring residents without symptoms of a respiratory infection to another facility that agrees to accept each specific resident to observe for any signs or symptoms of a respiratory infection over 14 days.)*

For facilities seeking to transfer residents between facilities to create a COVID-19 and non-COVID-19 facility under Transfer Option One, please complete F02651 [Nur sing Home COVID-19 Change Worksheet](#) and submit an electronic version of the completed form to Elizabeth Laubenstein at Elizabeth.Laubenstein@dhs.wisconsin.gov and DQA will review the form for completeness. If any sections are incomplete or need clarification, DQA will contact the facility. Approval by DQA is required before this option can be implemented by the facility.

No additional state licensure is required unless there is a need for a temporary increase in licensed beds. Requests to temporarily increase the number of licensed beds in the facility must be approved by the Division of Medicaid Services (DMS). Please send requests for additional licensed beds to Elizabeth Laubenstein at Elizabeth.Laubenstein@dhs.wisconsin.gov and Rene Eastman at Rene.Eastman@dhs.wisconsin.gov.

No additional life safety code inspection or survey is required for this option. The physical environment is part of the nursing home and is regulated under the Life Safety Code requirements and Wis. Admin Code ch. DHS 132, subchapter VIII.

However, where the contemplated expansion is not anticipated to substantially comply with the requirements of the NFPA 101 2012 edition of the Life Safety Code or Wis. Admin. Code ch. DHS 132, subchapter VIII, the nursing home should submit an interim life safety plan to DHSDQAPlanReview@dhs.wisconsin.gov setting forth how the proposed expansion will safeguard residents, staff and others in accordance with the expectations of NFPA 101 2012 edition with regards to Goals, Objectives and Fundamental Requirements as described under Chapter 4.

Transfer Option Two:

Transfer residents from one or more certified Long Term Care facilities to a non-certified location (on or off campus) that is state approved and where residents must be cared for by Long Term Care facility staff. Medicare reimbursement remains with the Long Term Care facility caring for residents in the new location. The location could be used by multiple Long Term Care facilities providing care with their own staff.

Note: *Per CMS QSO Memo 20-25-NH, CMS is waiving requirements related at 42 CFR 483.90, specifically the following: Provided that the state has approved the location as one that sufficiently addresses safety and comfort for residents and staff, CMS is waiving requirements under § 483.90 to*

allow for a non-certified Long Term Care (LTC) building to be temporarily certified and available for use by a LTC facility in the event there are needs for isolation for COVID-19 positive residents, which may not be feasible in the existing LTC facility structure to ensure care and services during treatment for COVID-19 are available while protecting other vulnerable adults.

These requirements are also waived when transferring residents to another facility, such as a COVID-19 isolation and treatment location, with the provision of services “under arrangements,” as long as it is not inconsistent with a state’s emergency preparedness or pandemic plan, or as directed by the local or state health department. In these cases, the transferring LTC facility need not issue a formal discharge, as it is still considered the provider and should bill Medicare normally for each day of care. The transferring LTC facility is then responsible for reimbursing the other provider that accepted its resident(s) during the emergency period.

DQA will not request an application for separate licensure for expansion locations that are located on the campus with the same physical address or otherwise on the contiguous property of the licensed nursing home. For facilities seeking to implement Transfer Option Two, please complete F02651 [Nursing Home COVID-19 Change Worksheet](#) and submit an electronic version of the completed form to Elizabeth Laubenstein at Elizabeth.Laubenstein@dhs.wisconsin.gov and DQA will review the form for completeness. If any sections are incomplete or need clarification, DQA will contact the facility. Approval by DQA is required before this option can be implemented by the facility.

Nursing homes seeking to use off-campus facilities for COVID-19 residents may require coordination with DQA for an expedited licensing process. In this case, please contact Elizabeth Laubenstein at Elizabeth.Laubenstein@dhs.wisconsin.gov for assistance.

Requests to temporarily increase the number of licensed beds in the facility must be approved by the Division of Medicaid Services (DMS). Please send requests for additional licensed beds to Elizabeth Laubenstein at Elizabeth.Laubenstein@dhs.wisconsin.gov and Rene Eastman at Rene.Eastman@dhs.wisconsin.gov.

The nursing home shall conduct a life safety code evaluation of an on-campus non-Long Term Care certified facility based on the NFPA 101 2012 edition of the Life Safety Code as well as Wis. Admin. Code ch. DHS 132, subchapter VIII.

Where the contemplated expansion is not anticipated to substantially comply with the requirements of the NFPA 101 2012 edition of the Life Safety Code or Wis. Admin. Code ch. DHS 132, subchapter VIII, the nursing home should submit an interim life safety plan to DHSDQAPlanReview@dhs.wisconsin.gov setting forth how the proposed expansion will safeguard residents, staff and others in accordance with the expectations of NFPA 101 2012 edition with regards to Goals, Objectives and Fundamental Requirements as described under Chapter 4.

Any alteration or construction associated with creation of a designated unit may be subject to review and municipal permitting. Please contact David Soens at 608.220.0521 or David.Soens@dhs.wisconsin.gov and the local municipality to further address this work.

Nursing homes wishing to establish temporary expansion sites in a facility not on the nursing home campus shall contact the municipal authority regarding permitting and occupancy. The response from the municipal authority shall be included in the interim life safety plan. If any construction or alteration

is necessary to accommodate a building to be temporarily licenses as a nursing home, please consult with Davis Soens and the municipal building code as well as the fire code official.

The Department of Safety and Professional Services (DSPS) must be contacted specific to any plumbing related concerns. Please contact Tom Braun at 715-634-5124 or Thomas.Braun@wisconsin.gov.

Transfer Option Three:

Transfer of COVID-19 residents to Federal or State run facility staffed with Federal or State personnel: Transfers by Order of Governmental Authority (e.g., FEMA) and no reimbursement to the LTC facility.

(Note: Per CMS QSO Memo 20-25-NH, no waivers are required as long as the transfer is in accordance with the state's emergency operations plans, or as directed by local or state health department.)

For facilities seeking to implement Transfer Option Three, please complete F02651 [Nursing Home COVID-19 Change Worksheet](#) and submit an electronic version of the completed form to Elizabeth Laubenstein at Elizabeth.Laubenstein@dhs.wisconsin.gov and DQA will review the form for completeness. If any sections are incomplete or need clarification, DQA will contact the facility. Approval by DQA is required before this option can be implemented by the facility.

No additional state licensure is required as long as the transfer is in accordance with the state's emergency operations plans or as directed by local or state health department. No additional Life Safety Code action will be required for these facilities.

Resources

CMS

[Blanket Waivers](#)

QSO 20-25-NH 2019 [Novel Coronavirus \(COVID-19\) Long-Term Care Facility Transfer Scenarios](#)

Wisconsin

[Nursing Home Rules and Regulations](#)

[Nursing Home Licensure and Certification](#)

[Plan Review for Health Care Facilities](#)

[COVID-19 Webpage](#)

Questions

For questions related to nursing home licensure, please contact [Elizabeth Laubenstein](#).

For question related to Physical Environment or Life Safety Code, please contact [David Soens](#).

For general questions regarding this memo, please contact [Ann Angell](#).

Attachment

F02651 [Nursing Home COVID-19 Change Worksheet](#)