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Memorandum

TO: Assisted Living Residences Executive Directors
FROM: Executive Office of Elder Affairs Secretary Elizabeth Chen
SUBJECT: Guidance Associated with DPH COVID-19 Public Health Emergency Order No. 2021-1

DATE: June 15, 2021

On May 28, 2021, Governor Baker issued a declaration pursuant to Section 2A of Chapter 17 of the General Laws that an emergency exists that is detrimental to the public health in the Commonwealth. On June 14, 2021, the Department of Public Health (DPH) issued COVID-19 Public Health Emergency Order No. 2021-1, amending its previous Order issued on April 2, 2020.

In accordance with to the [DPH COVID-19 Public Health Emergency Order No. 2021-1](#), EOE hereby revokes the guidance it issued on April 2, 2020 and replaces it with the following guidance.

Notwithstanding the guidance provided below, ALRs must continue to comply with all applicable statutes, regulations, and guidance not inconsistent with the Order.

I. Skilled Care.

- A. In accordance with the Order, during the State of Emergency, a nurse employed by an ALR may provide skilled nursing care in accordance with valid medical orders, provided the nurse holds a valid license to provide such care, notwithstanding the provisions of M.G.L. c. 19D, § 11. The following conditions apply to the provision of skilled care:
1. A nurse providing skilled care must be employed or contracted by the ALR.

2. Before skilled care may be provided, the Resident must be evaluated by the nurse and any skilled care to be provided must be authorized by a physician or relevant medical professional. Documentation of such authorization must be included in the Resident's record.
 3. Skilled care may only be provided if the setting is medically appropriate for such care and the proper equipment, medication, and supplies are readily available.
 4. The skilled care to be provided, subject to the preceding conditions, may include, but is not necessarily limited to, the application or replacement of simple nonsterile dressings, the application of eye drops, the application of ointments, the management of oxygen on a regular and continuing basis, and injections.
 5. Prior to the provision of skilled care, the ALR must obtain the consent of the Resident, the Resident Representative, or Legal Representative. Any charges that may result from the provision of skilled care must be disclosed and accepted by the Resident, the Resident Representative, or Legal Representative.
- B. In accordance with the Order, during the State of Emergency, the prohibition on retaining or admitting residents who require skilled care for more than ninety consecutive days is suspended.
- C. ALRs providing limited skilled services must track and document for submission to EOE data including and not limited to the date and time the skilled service is provided, type of skilled service provided, and type of medication assistance resident is receiving. Such data collection and reporting is required for the period June 15 until September 15. An electronic data capture form will be sent under separate cover in the upcoming week.

II. Staffing.

- A. The requirement that no fewer than two staff members be on duty in a Special Care Unit (SCU), as required by 651 CMR 12.06(5)(b), is suspended for the duration of the State of Emergency. ALRs are required to have sufficient staff at all times to meet the scheduled and reasonably foreseeable unscheduled Resident needs.
- B. The ALR must track and document SCU staffing levels for the duration of the State of Emergency.

III. Training.

The training requirements for ALR staff, as required by 651 CMR 12.07, are waived for the duration of the State of Emergency, subject to the following:

- A. All newly hired ALR employees must have adequate experience to safely and professionally fulfill the requirements of the position.
- B. All newly hired employees must receive sufficient on-the-job training to familiarize them with the operational and administrative standards of the ALR, and to enable them to safely carry out their assigned duties.
- C. ALRs must provide any critical training as necessary to protect the health, safety, and welfare of ALR Residents.

This guidance shall remain in effect until 12:01 am on September 15, 2021, until Order No. 2021-1 is rescinded by DPH, or until the public health emergency is terminated by the Governor, whichever shall happen first.