

ESRD PROVIDERS

OVERVIEW AND FREQUENTLY ASKED QUESTIONS FOR LOUISIANA



DECLARED PUBLIC HEALTH EMERGENCIES / HEALTH STANDARDS AND QUALITY ISSUES

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OVERVIEW

Several areas within southern Louisiana remain without consistent infrastructure (i.e., electricity, safe water, gasoline, etc.). People, including many who are dialysis patients, evacuated due to the hurricane and mandatory notices. There are dialysis units that are open or opening in affected areas, but we caution everyone to consider issues such as the limited power, safe water, and available transportation prior to returning home.

- The dialysis community outside of the impacted areas can expect ongoing communications requesting transient dialysis services as patients travel. Please note that consistent phone service in Louisiana remains problematic, especially in the 504, 225 area codes. Calls can generally be received from this area but calling back remains challenging.
- Patients may still present to dialysis units without advance contact or medical records since conditions are evolving. Patients with no records CAN STILL BE TREATED. All that is required is for a physician to write dialysis orders. If the patients' HbsAg status is unknown, provide treatment as potentially positive. If these patients are admitted for treatment before results of HbsAg or anti-HBs testing are known, these patients shall undergo treatment as if

the HbsAg test results were positive, EXCEPT that they shall not be treated in the HbsAg Isolation room, area, or machine.

- Dialysis Services Placement Issues...If you are serving hurricane evacuees in your units, please ask them to notify you of their intent for long-term housing (i.e., relocating there, moving home, remaining in shelter, etc.). In the event that they are returning home, it is critical to request that any of these patients ask for your assistance in their dialysis services placement back home or wherever they may be relocating. USE THE APPLICABLE HOTLINES AS ESTABLISHED. The Network remains available to assist in patient placement as possible. Patients can utilize the 1.800.472.8664 toll-free number for patient placement assistance.
- For questions and additional information about Louisiana Medicaid issues, please contact their hotline at 1.888.342.6207 or visit their Web site at <http://www.dhh.louisiana.gov/offices/?ID=92>
- All current information and notices are available on local and national Web sites as referenced here:
 - 1) The Centers for Medicare & Medicaid Services (CMS)
http://www.cms.hhs.gov/Emergency/02_Hurricanes.asp.
 - 2) ESRD Network 13
<http://www.network13.org/>
 - 3) Kidney Community Emergency Response (KCER)
http://www.network13.org/disaster/KCER_Disaster_Info.pdf

QUESTIONS AND ANSWERS

A. ALL PROVIDERS

A-1. Affected States: *Do the modifications and flexibilities described in these Q&As apply only to providers in the states in which the Secretary of Health and Human Services has declared a public health emergency? In other words, do the modifications and flexibilities described in these Q&As also apply to providers in states that receive evacuees, regardless of geographical location (e.g. an evacuee who relocates to a non-border-sharing state)?*

The waivers and modifications apply only to providers located in the declared “emergency area” (as defined in section 1135(g)(1) of the SSA) in which the Secretary has declared a public health emergency, and only to the extent that the provider in question has been affected by the disaster, or is treating evacuees. The CMS Regional Office(s) will review the provider’s request and make decisions on a case-by-case basis. The waivers do not apply to care that is delivered to an evacuee by a provider that is not located in one of the designated areas. Providers outside of the affected areas should operate under normal rules and regulations unless specifically notified otherwise.

A-2. 1135 Waiver Duration: *How long does an 1135 waiver last and why do some people believe it only lasts 60 days?*

The length of the waiver or modification is for the duration of the emergency period, unless terminated sooner. In general, a waiver or modification of a Medicare, Medicaid or State Children's Health Insurance Program (SCHIP) requirement invoked by the Secretary as a result of a public health emergency, will end upon the termination of the Secretary's declaration of the public health emergency pursuant to Section 319 of the Public Health Service Act.

Waivers of sanctions under the Emergency Medical Treatment and Labor Act (EMTALA) in the emergency area end 72 hours after implementation of the hospitals disaster plan. However, if a public health emergency involves pandemic infectious disease, the waiver of sanctions under EMTALA is extended until the termination of the applicable declaration of a public health emergency."

In addition, a waiver or modification granted under the 1135 authority may terminate prior to the end of the Secretary's declaration of a public health emergency, if the waiver or modification is no longer necessary to accomplish the purposes set forth in Section 1135(a).

These waiver purposes are to ensure: (1) that sufficient health care items and services are available to meet the needs of Medicare, Medicaid and SCHIP beneficiaries; and (2) that health care providers (defined in this provision) that furnish such items and services in good faith, but are unable to comply with certain requirements (defined in this provision), may still be reimbursed for such items or services and exempted from sanction (absent fraud or abuse). For example, if a hospital regains its ability to comply with a waived requirement before the end of the declared emergency period, the waiver of that requirement would no longer apply to that hospital.

Section 1135(e)(1) provides three options to the Secretary for determining the duration of waivers or modifications under Section 1135. A waiver or modification terminates upon:

1. The termination of the declaration by the President of the emergency or disaster under the Robert T. Stafford Act or the National Emergencies Act (as applicable),
2. The termination of the declaration by the Secretary of the public health emergency, pursuant to section 319 of the Public Health Services Act, or
3. A period of 60 days from the date the waiver was published.

A-3. Waived Requirements: *What regulatory requirements can be waived under the 1135 waiver?*

When the Secretary invokes the 1135 waiver authority, CMS will take steps during each declared public health emergency to identify the specific requirements that will be waived or modified under the 1135 authority and to whom and under what circumstances such waivers or modifications will apply.

Some waivers may be "blanket waivers" and apply to all providers in the emergency area and during the emergency period that would otherwise be required to comply with the particular cited requirement.

For example, to facilitate a smooth transition, CMS may determine that time-limited waivers under the Section 1135 authority are necessary to allow critical access hospitals to exceed the 25-bed limits in order to accept evacuees.

Other waivers CMS determines to be necessary under the Section 1135 authority may apply only to particular provider(s), requirements, or conditions of participation specified by CMS, and may apply only for a specified period of time -- that is, not for the full emergency period. Examples include: temporary suspension of a pending termination action or denial of payment sanction so as to enable a nursing home to accept evacuees.

Updated waiver information and other announcements will be communicated on the CMS S&C Emergency Preparedness Website, which can be accessed at: <http://www.cms.hhs.gov/SurveyCertEmergPrep/>. This information will also be reflected in the FAQs.

A-4. Services in Non-Emergency Area: *In addition to those services provided in the emergency area, can the § 1135 waiver authority be used to include waivers regarding benefits and services provided for evacuees from emergency areas who are receiving those services in non-emergency areas?*

The § 1135 waiver authority does not extend beyond the "emergency area," which is defined as the area in which there has been both a Stafford Act or National Emergencies Act declaration and a public health emergency declaration. Medicare does allow for certain limited flexibilities outside the scope of the § 1135 waiver authority (as discussed in other Q&As), and some of these flexibilities may be extended to areas beyond the declared "emergency area."

A-5. Provider Relocation: *If a provider, who has been adversely impacted by a declared public health emergency, is unable to restart full operations, can they maintain their existing Medicare or Medicaid provider agreement while the facility is closed? Can a provider relocate, and what are the procedures for program certification if relocation is necessary?*

Each Medicare and Medicaid certified provider in the declared emergency area(s) should contact their State Survey Agency (SA) regarding their status and future plans. CMS recognizes that there are times when a public health emergency may result in consequences beyond the provider's control. Therefore, some providers may never be able to reopen at their original location and others may reopen at their original location after some period of time. Some providers may not be able to reopen unless they relocate to a new site.

Participation as a Medicare and/or Medicaid certified provider is based on the ability of the provider to demonstrate they can furnish services in a manner that protects the health and safety of beneficiaries according to the specific regulations for each provider type. However, CMS will exercise discretion and flexibility on a case-by-case basis, when determining to deactivate a provider's Medicare or Medicaid provider agreement and number, when the cessation of business is due to a declared public health emergency.

If the provider/supplier plans to reopen in a new location, CMS will need to determine if this will be a relocation of the current provider under its existing Medicare certification or a cessation of business at the original location and subsequent establishment of a new

business at another location, which would require another Medicare certification. To retain the current provider certification, the entity must demonstrate to the RO that it is functioning as essentially the same provider serving the same community. CMS will consider each request for relocation on a case-by-case basis and will typically use the following type of criteria:

- The provider remains in the same State and complies with the same State licensure requirements.
- The provider remains the same type of Medicare provider after relocation.
- The provider maintains at least 75 percent of the same medical staff, nursing staff and other employees, and contracted personnel (contracted personnel who regularly work 20 or more hours a week at the provider).
- The provider retains the same governing body or person(s) legally responsible for the provider after the relocation.
- The provider maintains essentially the same Medical Staff bylaws, policies and procedures, as applicable.
- At least 75 percent of the services offered by the provider during the last year at the original location continue to be offered at the new location.
- The distance the provider moves from the original site.
- The provider continues to serve at least 75 percent of the original community at its new location.
- The provider complies with all Federal requirements, including CMS requirements and regulations at the new location.
- The provider maintains essentially the same policies and procedures such as nursing, infection control, pharmacy, patient care, etc.
- CMS may use any other necessary information to determine if a provider/supplier continues to be essentially the same provider, under the same provider agreement, after relocation.

A-6. New Provider Regulation: *Because States with evacuees may be overwhelmed, regulation of new facilities may be challenging and fraud is a risk, what type of regulation will there be for new providers, such as assisted living or home health providers, that developed as a result of increased need for services in a particular area by evacuees? What will be the Federal and State requirements?*

The Federal government does not regulate assisted living facilities. Assisted living is a service recognized under several States' Medicaid home and community-based services (HCBS) waivers. State governments have jurisdiction in regulating these facilities and will continue to oversee the compliance of assisted living facilities with State law. New home health providers will be held to the same program requirements, Federal law and regulations, which would have otherwise been applied if the public health emergency had not occurred. In other words, no new Federal requirements will be imposed on new facilities, as a result of the disaster.

B. DRUGS

B-1. Contaminated Drugs: *How can health care facilities determine the appropriate use of contaminated and temperature sensitive drugs?*

For information regarding the use of potentially contaminated and temperature sensitive drugs during a disaster, please access the FDA's Website at www.fda.gov/cder/emergency. For questions about specific drug products, call the FDA general number: 1-888-INFO-FDA.

B-2. Redistribution of Drugs: *Does the 1135(b) waiver allow the redistribution of drugs marked for destruction in skilled nursing facilities (SNFs), nursing facilities (NFs), hospitals, etc., to aid a declared public health emergency relief effort?*

While Federal regulations do not directly address the issue of redistribution, it does speak about "including procedures that ensure the accurate acquiring, receiving, dispensing and distribution of all medications." Therefore, although the redistribution of drugs is a matter that is regulated by the State Boards of Pharmacy it is also addressed in Federal regulations with respect to the safety of the distribution system in practice. Each respective State Board of Pharmacy should be consulted regarding any proposed variance to State law to aid the relief effort (the Federal regulations also address compliance with applicable state laws).

B-3. Medications for Evacuated Patients & Residents: *Information regarding medications that patients and residents were receiving before being evacuated is important for facilities that now serve the evacuees. Can this information be accessed anywhere?*

Providers may access the State's Medicaid recipients' clinical drug histories for up to four (4) months. Facilities that receive this information will need to comply with the requirements of the Privacy Act.

In addition, the Emergency Rx History was launched by the nation's pharmacies in April 2007, to provide individuals who have been displaced by disasters or other kinds of emergencies with faster, safer access to prescription medications. Emergency Rx History allows licensed prescribers and pharmacists anywhere in the country to securely access information containing the prescription history of a patient from the affected area. Emergency Rx History reduces the risk of medication errors by making prescription information available to licensed caregivers when are where they are treating patients and residents. Emergency Rx History is a collaborative, public-service initiative made possible by the nation's community pharmacies and the Pharmacy Health Information Exchange, operated by SureScripts. For more information about Emergency Rx History, please access SureScripts' Website at: <http://www.surescripts.com/>

In addition, health care organizations involved in the manufacturing, distribution and dispensing of pharmaceutical products have come together to announce the creation of Rx Response – a program designed to help support the continued delivery of medicines during a severe public health emergency. The partnership includes the American Hospital Association, American Red Cross, Biotechnology Industry Organization, Healthcare Distribution Management Association, National Association of Chain Drug Stores, National Community Pharmacists Association and the Pharmaceutical Research and Manufacturers of America. For more information regarding Rx Response, please see their website at: <http://www.rxresponse.com/>.

LOUISIANA: Information on **Emergency 30-Day Prescription Supply for Medicare Beneficiaries**
<http://www.lhcr.org/State%20of%20Emergency.htm>

C. EMERGENCY EVACUATIONS

C-1. Policy of Emergency Evacuation: *What is CMS' policy to Medicare contractors regarding evacuations?*

Medicare policy provides contractors with leeway to determine Medicare reimbursement for services provided under unusual circumstances. While CMS recognizes it is in the patients' best interest to be evacuated as soon as possible during an emergency, contractors have the responsibility to determine if Medicare expenditures should be made for the evacuation.

In most cases, mass emergency evacuations billed to Part B are for nursing home patients from ambulance suppliers. Medicare skilled nursing facilities and Medicaid nursing facilities are required to have an emergency evacuation plan as a requirement for participation. Many will have insurance to cover these situations. If the facility has insurance that will cover the evacuations, Medicare is the secondary payer. If not, contractors should consider the following points prior to making payment:

- Medicare's medical necessity requirements apply in all cases;
- Payment may be made only if the patient was transported to an approved destination; and,
- Multiple patient transport payment provisions apply in all cases.

D. END STAGE RENAL DISEASE (ESRD)

D-1. ESRD Facility Status: *How do I find out information about the status of dialysis facilities during a disaster?*

The Kidney Community Emergency Response (KCER) group monitors weather-related and other disasters, and maintains information about dialysis services. KCER makes it easy to keep abreast of dialysis services during disasters. To view open / closed status of dialysis facilities please see KCER's link at: www.dialysisunits.com.

Providers should notify their local End-Stage Renal Disease Network if there are any changes in status. To access information on ESRD Networks and Coalition activities, and available tools and resources, please see the KCER Website at: www.KCERCoalition.com

D-2. Certification: *In an emergency environment, how might capable providers who are not currently certified to provide ESRD outpatient services, become certified to receive Medicare reimbursement for delivered dialysis services?*

The Medicare program has a special classification for facilities that provide dialysis treatment services during emergencies. This classification is entitled "special purpose dialysis facilities." The certification for a "special purpose dialysis facility" may last for up to eight months. A special purpose dialysis facility may provide services only to those patients who would otherwise be unable to obtain treatments in the geographical areas served by the facility. A special purpose dialysis facility should consult with a patient's physician to assure that care provided in the special purpose dialysis facility is consistent with the patient's care plan.

Certification for a special purpose dialysis facility can be immediate. For this certification, a provider should contact either the State Agency where the facility would be located, or the CMS Regional Office.

D-3. Recertification: *How will recertification be handled for those Medicare-certified dialysis facilities with CMS Certification Numbers that have to close due to damage?*

Medicare-certified dialysis facilities with CMS Certification Numbers that need to rebuild or relocate following the public health emergency, should notify either the State Survey Agency or the Regional Office of their intention. Once the dialysis facility is operational and in compliance with Medicare's health and safety requirements, the facility may resume billing under their current CMS Certification Number. Relocated and rebuilt ESRD facilities will be surveyed to assure compliance with basic health and safety requirements when recovery efforts and resources at the State level permit.

D-4. Water Treatment Precautions: *The CDC states that dialysis centers that are operating in the area need to pay special attention to water treatment and especially carbon tank maintenance because of the assumption that extra chlorine may be dumped into the water system by water treatment plants. More frequent disinfection of the water treatment and dialysis equipment may be needed. Is additional information available about special precautions?*

The Centers for Disease Control and Prevention (CDC) and the Food and Drug Administration (FDA) have set up Websites about infection control and water treatment issues and medical devices for natural disasters. The CDC has provided multiple sets of guidelines, available at <http://www.bt.cdc.gov/disasters/hurricanes/index.asp>. These include guidelines of particular interest to health-care providers, relief workers, and shelter operators. *Hurricane-Related Information for Health-Care Professionals* (<http://www.bt.cdc.gov/disasters/hurricanes/hcp.asp>) includes guidelines for managing acute diarrhea and guidance related to immunizations and vaccine storage. *Worker Safety During Hurricane Cleanup* (<http://www.bt.cdc.gov/disasters/hurricanes/workers.asp>) includes health recommendations for relief workers and guidance on worker safety during a power outage. In addition, a new compilation, Natural Disasters, has been added to the *M Guide Online Knowledge Centers* at the *MMWR* Website (<http://www.cdc.gov/mmwr>). The *M Guide* provides Internet links to previously published *MMWR* reports regarding assessment of health needs and surveillance of morbidity and mortality after hurricanes, floods, and the December 26, 2004 tsunami.

The FDA Website at www.fda.gov/cdrh/emergency/hurricane.html covers general safety, power outage (warning about potential carbon monoxide problems when using generators), water contamination, sterility, reuse, heat and humidity (information about using blood glucose meters), and treating snakebites. The FDA has a main site for health and safety <http://www.fda.gov/oc/opacom/hottopics/hurricane.html>.

D-5. Restoring Operations: *What considerations need to be taken into account when restoring a dialysis facility to operational status in the recovery phase following a public health emergency?*

The CDC, FDA, and the Association for the Advancement of Medical Instrumentation (AAMI) have prepared recommendations about reopening dialysis facilities following a disaster. These directions are for use if the building has not been flooded, and after utilities have been restored, the physical facility is in operational condition, and adequate water flow and pressure is available, although source water may be subject to a “boil water alert.” If the facility was flooded, please see the CDC guidelines for recovery of a flooded building at <http://www.bt.cdc.gov/disasters/floods/>

Water Treatment System

- Flush all pretreatment equipment to drain for at least 30 minutes to remove the stagnant water from the system.
- Test the level of free chlorine and chloramine in your source water (expect it to be higher than normal).
- Test chlorine and chloramine after the primary carbon tank to verify that the water is <0.5 ppm free chlorine, or <0.1 ppm chloramine.
- If chlorine or chloramines after the primary carbon tank ≥ 0.5 ppm or ≥ 0.1 ppm, respectively, promptly change the primary carbon tank, or for systems with a secondary carbon tank, test the levels after the secondary carbon tank.
- If chlorine and chloramine are below these levels (0.5 ppm or 0.1 ppm), turn on the Reverse Osmosis (RO) machine.
- Flush the distribution system (to drain if possible).
- Disinfect the RO and the distribution system and rinse. Test for residual disinfectant levels to ensure proper rinsing.
- Replace all cartridge filters.
- Compare your product water quality readings to your historical data. A significant difference could mean that your RO membranes are damaged, or the quality of the incoming water has drastically decreased. (see note below) If the total dissolved solids (TDS) are greater than 20% higher than your historical readings you may need to use deionization (DI) tanks as a polisher on the product water, followed by an ultrafilter to minimize microbial contamination.
- Increase your frequency of monitoring:
 - Check chlorine/chloramine hourly
 - Verify hourly that your product water quality is acceptable.
 - Monitor water cultures and endotoxin at least weekly. If you have the capability to test for endotoxin on site, test daily.
- Draw representative water cultures and endotoxin tests as soon as possible. If you have the capability of testing for endotoxin on site, do this before you run patients; report the results to your Medical Director.
- Anticipate an increased level of particulate matter in the water. Monitor the pressure drop across pretreatment components and backflush as necessary.
- Plan on re-bedding your carbon tanks as soon as possible.
- Send a sample of product water for an AAMI analysis as soon as is practical.
- Clean the RO membranes as soon as is practical.

Dialysis Machines:

- Chemically disinfect the dialysis machines and rinse. Test for residual disinfectant levels to ensure proper rinsing.

- Bring up the conductivity and “self test” the machines to verify proper working condition. If a machine fails the “self test,” perform needed repairs prior to using that machine.

Note: If the product water TDS is high and the percent rejection is in line with historical performance, then the RO membranes are most likely good, but the feed water may have a higher than usual level of contaminants. DI polishing will help cope with the extra burden in the feed water.

If the product water TDS is high and the percent rejection is lower than historical values, then the RO membranes are probably bad and should be replaced promptly. DI polishing may or may not be needed once the RO membranes are replaced.

Hemodialysis Water Treatment References:

Northwest Renal Network document *Monitoring Your Dialysis Water Treatment System*
<http://www.nwrenalnetwork.org/watermanual.pdf>

Association for the Advancement of Medical Instrumentation, Recommended Practices for Dialysis Water Treatment Systems (RD 52 and RD 62)
<http://aami.org/publications/standards/dialysis.html>

Other Resources:

Guidance for Dialysis Care Providers: What to do when your municipal water supplier issues a "boil water advisory"
http://www.cdc.gov/ncidod/dhqp/dpac_dialysis_boilwater.html

Water Related Emergencies
<http://www.bt.cdc.gov/disasters/watersystemrepair.asp>

Tips about Medical Devices and Hurricane Disasters
<http://www.fda.gov/cdrh/emergency/hurricane.html>

Medical Devices that Have Been Exposed to Heat and Humidity
<http://www.fda.gov/cdrh/emergency/heathumidity.html>

Medical Devices Requiring Refrigeration
<http://www.fda.gov/cdrh/emergency/refrigeration.html>

Fact Sheet: Flood Cleanup - Avoiding Indoor Air Quality Problems
<http://www.epa.gov/mold/flood/index.html>

NIOSH Response: Storm and Flood Cleanup
<http://www.cdc.gov/niosh/topics/flood/>

OSHA Fact Sheet
http://www.osha.gov/OshDoc/data_Hurricane_Facts/Bulletin3.pdf

American Institute of Architects: Procedures for Cleaning Out a House or Building Following a Flood
http://www.aia.org/liv_disaster_floodproc

D.6. Relocated Transplant Patients: *Some transplant patients or patient candidates may be relocated due to a public health emergency. How will their wait-list time be calculated if they transfer to other transplant centers? How can they receive information about open transplant centers?*

The Organ Procurement Transplantation Network (OPTN), which operates the nation's organ transplant and allocation system, can assist relocated transplant patients in finding alternative transplant centers. In past public health emergencies, OPTN has provided specific information to address relocated transplant candidates on its website, www.optn.org, including information about other available transplant centers within each state. We would encourage any transplant candidate seeking information about transferring to another transplant center to refer to this website or contact the toll-free Patient Services line at 1-888-894-6361. Transplant candidates and recipients are encouraged to call between 8:30 a.m. to 5:00 p.m. EST Monday through Friday for assistance with questions and resources.

Relocated transplant candidates who need to list at a different center can transfer their accumulated waiting time without losing any allocation priority.

E. STAFFING

E-1. Licensed Health Professional Volunteers: *I would like to volunteer my medical services, but do not have a license to practice in a state affected by the declared public health emergency. Can I still treat patients in the state?*

Check with your State Agency and the appropriate health care professional board. Each State should be making plans to address potential staffing shortages and licensing procedures, such as establishing reciprocity with other states and recruiting volunteers during nonemergency periods and/or emergency periods.

In addition, the U.S. Department of Health and Human Services requires every state that receives Hospital and Healthcare Facilities Partnership Preparedness Program grant funds to develop an Emergency System for Advance Registration of Volunteer Health Professions (ESAR-VHP) system, that allows advance registration and credentialing of clinicians and health volunteers to effectively respond to surge capacity needs. The State ESAR-VHP System will:

- Register health professional volunteers
- Apply emergency credentialing standards to registered volunteers
- Allow verification of the identity, credentials, and qualifications of registered volunteers during an emergency

By registering in ESAR-VHP, the volunteer agrees to provide health services during an emergency and authorizes the State to collect the necessary information to determine the individual's credential status and emergency credentialing level.

E-2. Nurse Aide Screening: *Nurse aides may relocate from a state in a public health emergency area, into another state, as some corporate skilled nursing facilities (SNFs) may transfer resident evacuees and staff to sister facilities in other states during an emergency. Some SNFs in the affected states may be unable to conduct criminal background checks, check*

references, or search the status of the Nurse Aide Registry. What should these SBFs do to assure that they do not employ nurse aides with a conviction and/or substantiated finding of abuse, neglect or misappropriation of resident property?

During a declared public health emergency, nursing home providers must do the best they can to ensure that only nurse aides in good standing, who have relocated from an affected area, are hired to work in the nursing home. At a minimum, CMS expects that nursing home providers that employ nurse aides relocating from an affected state will search any nurse aide registry that the nursing home believes is likely to contain information on the nurse aide.

The Office of Inspector General (OIG) Exclusion List is also a useful tool for nursing homes and other health providers to obtain information about nurse aides and other health care workers with relevant convictions, such as offenses of abuse and neglect. The OIG Exclusion List of Excluded Individuals/Entities may be located at: <http://oig.hhs.gov/fraud/exclusions/listofexcluded.html>

(Federal regulations do not require that nursing homes conduct a criminal background check before hiring a nurse aide; however, the criminal background check may be a state requirement.)

E-3. Employing Persons to Provide Direct Care: *Additional nurse aides may be needed by nursing homes that have admitted residents displaced by a disaster. May those SNFs use persons who are currently not included on the State's nurse aide registry to help with duties normally performed by nurse aides?*

Under current law, nursing homes may employ individuals who are enrolled in an approved nurse aide-training program, who have demonstrated proficiency, but have not yet passed the competency evaluation program. These persons must be under the supervision of a registered nurse. There is a 4-month period that facilities may employ persons enrolled in a nurse aide-training program, but whose names are not yet included on the state nurse aide registry. SNFs must employ individuals who are competent to function as nurse aides to provide direct care to residents, as determined by regulation.

If a SNF wishes to use volunteers to provide services, they are free to do so. However, volunteers are not employees of the facility and generally will be limited in the types of duties they can perform. For more information about the declared public health emergency volunteer efforts, please see the following Website: <https://volunteer.ccrf.hhs.gov/>

E-4. Licensure Verification Requirements: *We have had several questions related to licensure verification of health professional including physicians, nurses, and social workers. What should a prospective employer do if he/she cannot verify licensure with the appropriate professional board during a declared public health emergency?*

The 1135(b) waiver allows for some flexibility that would be applicable for the declared public health emergency areas. We would expect providers to exercise due diligence, access whatever information is available through alternate resources, and ensure that the individual properly attests to their qualifications. The employer may contact past employers that may have verified the license, request verification, and document the efforts. Also, the employer

may obtain a signed affidavit from the prospective employee attesting that he or she is licensed. The affidavit should be maintained while awaiting the professional board to resume operations.

LOUISIANA: THE FOLLOWING INFORMATION IS APPLICABLE FROM THE LOUISIANA STATE BOARD OF NURSING.

Temporary Registrations Medical Personnel Nursing

The process for those Registered Nurses who are non-gratuitous are as follows:

1. Download the affidavit on the LSBN website or as available here (<http://www.lsbn.state.la.us/documents/Forms/DisasterPermitAffidavit.pdf>). Registered nurses from other jurisdictions should complete form as directed.
2. Form should be faxed to 225-755-7581.
3. The registered nurse may practice on verification that his/her fax has been transmitted. LSBN will not return a message of receipt of fax.
4. LSBN will process the disaster permit and will enter it into our licensure system.
5. The registered nurses status should be accessible through the verification system at www.lsbn.state.la.us
6. The disaster permit in effect for 60 days unless it is extended.

E-5. Medication Administration: *Skilled Nursing Facilities located in declared public health emergency areas may be having problems with delivering medication to residents. Some states will only allow a nurse to administer medications. Can nurse aides administer medication in this emergency? Are there any Federal statutes or regulations that would affect these issues, or are they only affected by state laws and regulations?*

With regard to the administration of medications by anyone other than a nurse in a declared public health emergency area, SNFs would need to seek guidance from the State, as this is an issue of State law.