



# Information and Instructions for State Regulation Waiver Application

## Definitions:

“Applicant” means a current health care entity licensee, or an applicant for federal certification, or for an initial license to operate a health care entity in the state of Colorado.

“Board” means the State Board of Health.

“CMS” means the Federal Medicare Agency, the Centers for Medicare & Medicaid Services.

“Department” means the Colorado Department of Public Health & Environment.

“DFPS” means the Division of Fire Prevention and Safety of the Colorado Department of Public Safety.

“Health Care Entity” means a health facility or agency licensed pursuant to Section 25-1.5-103 and 25-3-102, C.R.S., and/or certified pursuant to federal regulations to participate in a federally funded health care program. Health care entity(s) includes the terms “facility(s)”, “applicant(s)”, and “agency(s)”.

“HCPF” means the State Medicaid Agency, the Department of Health Care Policy and Financing.

“Regulation(s)” means: (a) Any state regulation promulgated by the Board relating to standards for operation or licensure of a health care entity, or (b) Any federal regulation pertaining to certification of a health care entity, but only when final authority for waiver of such federal regulation is vested in the Department. Regulation(s) includes the terms “standard(s)” and “rules(s)”.

## Instructions:

1. Before completing the Waiver Application form, read Chapter 2, Section 4 of the *Standards for Hospitals and Health Facilities* (6 CCR 1011-1). References to particular sections refer to Part 4. The Department does not approve Medicaid Waivers; please contact HCPF at 1-800-221-3943. The Department does not approve Medicare Waivers for a Federal Certification Health Survey; please contact CMS at 303-844-7034.
2. The Waiver Application form can be completed using Adobe Reader or Adobe Pro software. Please save the file to your computer.
3. Only one regulation per waiver application will be considered.
4. The waiver application shall include and address the matters found in Chapter 2, Section 4.103 (2) and (3) Application Procedure.
5. Waiver applications must contain a signature of an authorized representative of the applicant, who shall be the primary contact person for the Department and the individual responsible for ensuring that accurate and complete information is provided to the Department.
6. **POSTING NOTICE.** No later than the date of submitting the waiver application with the Department, the applicant shall post notice of the application and a meaningful description of the substance of the waiver request at all public entrances to the health care entity, as well as in at least one area commonly used by patients or residents, such as a waiting room, lounge or dining room. The notice must reflect the date of posting, and indicate that an application for a waiver has been made and that a copy of the waiver application shall be provided by the health care entity upon request. This notice must also indicate that any person interested in commenting on the waiver application may forward his/her comments within 30 calendar days of the date the notice is

posted by the applicant directly to the Department at the following address: *Colorado Department of Public Health & Environment, Health Facilities Division - C1 - Waiver Program, 4300 Cherry Creek Drive South Denver, CO 80246-1530*, and that persons wishing to be notified of the Department's action on the waiver application may submit to the Department at the above address a written request for notification and a self-addressed stamped envelope.

7. Please include a copy of the notice required in Number 6 above with the complete waiver application.
8. If the waiver application pertains to building requirements, please submit plans/blueprints to us either via email or on a CD-ROM, in Adobe PDF format with the full-size plans sized to no larger than ANSI/ARCH E size and a resolution set to no less than 300 dpi. If submitting on CD-ROM files, all pages/sheets should be combined into one Adobe PDF for each book of prints. These plans should include the areas affected and a description of the effect of the requested waiver on the total health care entity. If submitting plans/blueprints via email, file size cannot exceed 10 MB per attachment per email. Please combine pages/sheets into 10 MB files, labeling each file with facility name and description of section of building. Email subject line should contain the facility's name, waiver request, and regulation Chapter and Section (i.e. Smith Health Care waiver request Chpt #, sect #.#). If sending multiple emails, in last email, please include number of emails sent for waiver request. Email address is [cdphe.hfd-revisits@state.co.us](mailto:cdphe.hfd-revisits@state.co.us).

The plans/blueprints submitted to the Department, shall be forwarded for review to the Department of Public Safety, Division of Fire Prevention and Control certifying that the building or structure of the health care entity is in conformity with the standards adopted by the Director of the Division of Fire Prevention and Control, and is applicable to the continuation of the Certificate of Compliance. This requirement does not apply to out-patient hospice or home care agency licenses because they do not provide services on their own premises.

9. The Department will not consider a waiver application complete until such time as the applicant has provided all information and documentation requested by the Department.
10. The Department shall act on a waiver application within ninety (90) calendar days of receipt of a complete application.
11. If your waiver is granted and you choose to reapply for the waiver, your new waiver application must be submitted to the Department no later than 90 days prior to the expiration of the current term of the waiver.

#### **Appeal Procedures:**

An applicant may appeal the decision of the Department or the Board regarding a waiver application or revocation as provided in the Colorado Administrative Procedures Act, Section 24-4 101 et seq., C.R.S.

#### **Department Action on Waiver Applications:**

Upon submission of a completed waiver application, a waiver of a particular regulation may be granted to a health care entity in accordance with Part 4. In acting on a waiver application, the Department shall consider all information submitted by the applicant, information timely submitted by interested persons, pursuant to Section 4.103 and whether granting the waiver would adversely affect the health, safety or welfare of the health care entity's residents or patients. The Department may also consider any other information it deems relevant, including but not limited to occurrence and complaint investigation reports, and licensure or certification survey reports and findings related to the health care facility and/or the operate or owner thereof.

#### **Terms and Conditions of the Waiver:**

The Department may specify terms and conditions under which any waiver is granted, and which terms and conditions must be met in order for the waiver to remain effective.

### Termination, Expiration and Revocation of Waivers:

1. **Termination.** A waiver shall automatically terminate upon a change of ownership, as defined in Chapter 2, Part 2.7. However, to prevent such automatic termination, the prospective new owner may submit a waiver application to the Department prior to the effective date of the change of ownership. Provided the Department receives the new application by this date, the waiver will be deemed to remain effective until such time as the Department acts on the application.
2. **Expiration.** Except as otherwise provided herein, no waiver shall be granted for a term that exceeds one year from the date of issuance. The Department may grant waivers exceeding a one-year term for regulations pertaining to state building or fire safety regulations, or in other specific cases where the Department determines a longer term is appropriate. If an applicant wishes to maintain a waiver, it must submit a new waiver application to the Department not less than 90 calendar days prior to the expiration of the waiver.
3. **Revocation.** Notwithstanding anything in Chapter 2, Section 4 to the contrary, the Department may revoke a waiver if it determines that its continuation jeopardizes the health, safety, and welfare of residents or patients; the applicant has provided false or misleading information in the waiver application; the applicant has failed to comply with the conditions of the waiver; the Department determines the conditions under which a waiver was granted no longer exist; or the Department decides to revoke a waiver, notice shall be provided to the applicant in accordance with the Colorado Administrative Procedures Act, Section 24-4-101 et seq., C.R.S.