



INFORMATION AND INSTRUCTIONS FOR WAIVER APPLICATIONS

Definitions:

“Applicant” means a current health facility licensee or an applicant for federal certification or for an initial license to operate a health facility in the state of Colorado;

“Board” means the State Board of Health;

“Department” refers to the Colorado Department of Public Health & Environment;

“Facility” means a health facility licensed pursuant to Sections 25-1-107 (1)(1)(I) and 25-3-102, C.R.S. , and/or certified pursuant to federal regulations to participate in a federally funded health care program;

“Regulation(s)” means (a) any state regulation promulgated by the Board relating to standards for operation or licensure of a facility, or any federal regulation pertaining to certification of a facility, but only when final authority for waiver of such federal regulation is vested in the Department. Regulation(s) includes the terms “standard(s)” and “rule(s);”

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

Instructions:

1. Before completing the “Waiver Application” form, read Part 4 of Chapter II 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”, you must contact HCPF at 1-800-221-3943.
2. Only one regulation to be considered for waiver may be submitted per application.
3. The waiver application shall include and address the matters found in Section 4.103 (2) and (3).
4. 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.
5. 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 facility, 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 facility 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 – A2 - Waiver Program, 4300 Cherry Creek Drive South, Denver, CO 80246*, 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.
6. Please include a copy of the notice required in Number 5 above with the completed waiver application.
7. If the waiver application pertains to building requirements, please submit plans/blueprints to us on a CD or DVD 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. 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 facility.

8. 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.
9. The Department shall act on a waiver application within ninety (90) calendar days of receipt of a completed application.
10. 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 facility 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 facility'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 facility and/or the operator 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 Subsection 2.9.1 of Part 2, Chapter II. 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 Part 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 determines that a change in federal or state law prohibits continuation of the waiver. If 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.



**COLORADO DEPARTMENT OF PUBLIC HEALTH & ENVIRONMENT
HEALTH FACILITIES DIVISION**

APPLICATION FOR WAIVER OF REGULATIONS FOR HEALTH FACILITIES

The regulations governing the process of granting or denying applications for waivers of regulations pertaining to health facilities in Colorado can be found in Part 4, Chapter II of the Department's Standards for Hospitals and Health Facilities (6 CCR 1011-1).

Applicant

Name: _____
Address: _____
Administrator: _____
Date of Application: _____

Is waiver application submitted pursuant to a deficiency citation from a recent survey?

Yes No

If "yes," what is the date of the survey resulting in the deficiency and Tag Number _____

Has a Plan of Correction been submitted to the Department? Yes No

Is waiver application submitted pursuant to building construction and/or fire safety (i.e., new construction, modification, remodeling, etc.)? Yes No

If "yes," please describe the construction _____

What is the specific regulation citation that is the basis for the waiver application? _____

Describe the code requirement or regulation in which the facility is deficient:

Explain why the facility needs a waiver of this regulation:

Explain how the facility's present situation does not comply with the regulation:

Please provide a detailed description of the programs or services offered by the facility affected by the regulation:

Please provide, on a separate page, the following:

1. A copy of the notice required to be posted pursuant to Section 4.103(4);
2. If the waiver application pertains to building requirements, plans/blueprints of the areas affected and a description of the effect of the requested waiver on the total facility shall be submitted to our agency on a CD or DVD 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. All pages/sheets should be combined into one Adobe PDF for each book of prints;
3. A description of the programs or services offered by the facility that are anticipated to be affected by the waiver;
4. A description of the number of residents or patients in the facility and the level of care they require;
5. A description of the nature and extent of the applicant's efforts to comply with the regulation;
6. An explanation of the applicant's proposed alternative(s) to meet the intent of the regulation that is the subject of the waiver application;
7. An explanation of why granting the waiver would not adversely affect the health, safety or welfare of the facility's residents or patients;
8. If the waiver is being sought for state regulation, a description of how any applicable federal regulation similar to the state regulation for which the waiver is sought (if any) is being met.

Please address, on a separate page, the following matters, to the extent applicable or relevant:

1. Staffing considerations, such as staff/resident or patient ratios, staffing patterns, scope of staff training, and cost of extra or alternate staffing;
2. The location and number of ambulatory and non-ambulatory residents or patients;
3. The decision-making capacity of the residents or patients;
4. Recommendations of attending physicians and other care-givers;
5. The extent and duration of the disruption of normal use of resident or patient areas to bring the facility into compliance with the regulation;
6. Life safety code factors, including but not limited to:
 - a. The availability and adequacy of areas safe from fire and smoke to hold residents or patients during a fire emergency;
 - b. Smoking regulations;
 - c. Fire emergency plan;
 - d. The availability, extent and types of automatic fire detection and fire extinguishment systems provided in the facility;
 - e. The ability to promptly notify, and availability of, the fire department;
7. Financial factors, including but not limited to:
 - a. The estimated cost of complying with the regulation, including capital expenditures and any other associated costs, such as moving residents or patients;
 - b. How application of the regulation would create a demonstrated financial hardship on the facility that would jeopardize its ability to deliver necessary health care services to residents or patients;
 - c. The availability of financing to implement the regulation, including financing costs, repayment requirements, if any, and any financing or operating restrictions that may impede delivery of health care to residents or patients; and
 - d. The potential increase in the cost of care to residents or patients as a result of implementation of the regulation.
8. Why waiver of the regulation is necessary for specific facility programs to meet specific patient or resident needs, and why other patient or resident needs are not thereby jeopardized.

Have you posted notice pursuant to Chapter II, Part 4, Section 4.103 (4)? Yes No

Please include a copy of the notice with your completed application.

I hereby certify that the information contained herein is true, accurate and complete to the best of my knowledge.

Signature of Authorized Person:

Date:

Print Name:

Title:

Return completed waiver application and any attachments to:

Colorado Department of Public Health & Environment
Health Facilities and Emergency Medical Services Division – A2
Attention: Waiver Intake
4300 Cherry Creek Drive South
Denver, CO 80246

FOR OFFICE USE ONLY

Action: Approved _____
(Date)

Denied _____
(Date)

Reason for Action: _____

Conditions on waiver: Yes No

Explain condition: _____

Waiver expiration date: _____