

310_675-1-6 Waiver

(a)

The Commissioner of Health, in accordance with 63 O.S. Section 1-1900.2, may waive provisions of the Nursing Home Care Act and this Chapter, if the Department of Health determines that such waiver would not endanger the life, safety or health of any resident of a nursing facility and the waiver application meets the requirements specified in this section and 63 O.S. Section 1-1900.2.

(b)

Any facility requesting a waiver shall apply in writing to the Department of Health. Such application shall include: (1) The specific statute(s) or regulation(s) for which the waiver is requested; (2) Reason(s) for requesting a waiver; (3) An explanation of how the requested waiver fosters the development of resident autonomy, individualization and culture change in support of a deinstitutionalization model; (4) The specific relief requested; and (5) Any documentation which supports the application for waiver.

(1)

The specific statute(s) or regulation(s) for which the waiver is requested;

(2)

Reason(s) for requesting a waiver;

(3)

An explanation of how the requested waiver fosters the development of resident

autonomy, individualization and culture change in support of a deinstitutionalization model;

(4)

The specific relief requested; and

(5)

Any documentation which supports the application for waiver.

(c)

In consideration of any application for waiver, the Commissioner of Health may consider the following: (1) Compliance with 63 O.S. Section 1-1900.2; (2) The level of care provided; (3) The maximum resident capacity; (4) The impact of a waiver on care provided; (5) Alternative policies or procedures proposed; and (6) Compliance history with provisions of the Nursing Home Care Act and this Chapter.

(1)

Compliance with 63 O.S. Section 1-1900.2;

(2)

The level of care provided;

(3)

The maximum resident capacity;

(4)

The impact of a waiver on care provided;

(5)

Alternative policies or procedures proposed; and

(6)

Compliance history with provisions of the Nursing Home Care Act and this Chapter.

(d)

The Department of Health shall consider each request for a waiver and shall

approve or disapprove the request in writing within sixty (60) business days of receipt of the request.

(e)

If the Department of Health finds that an application is incomplete, the Department shall advise the applicant in writing and offer an opportunity to submit additional or clarifying information. The applicant shall have thirty (30) business days to submit additional or clarifying information in writing to the Department of Health upon receipt of written notification.

(f)

The facility that is granted a waiver shall notify residents of the facility or, where appropriate, the guardians or legal representatives of such residents of the waiver in writing.

(g)

An applicant who disagrees with the Department's decision regarding the waiver application may file a written petition requesting review by an administrative law judge in an individual proceeding under the Oklahoma Administrative Procedures Act.

(h)

The Department may revoke a waiver through an administrative proceeding in accordance with the Oklahoma Administrative Procedures Act upon finding the nursing facility is operating in violation of the waiver or the waiver endangers the life, safety or health of any resident in the nursing facility.