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Title 310@ Oklahoma State Department of Health

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Chapter 675@ Nursing and Specialized Facilities

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Subchapter 5@ Physical Plant

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Section 310:675-5-22@ Exceptions and temporary waivers

310_675-5-22 Exceptions and temporary waivers

(a)

These standards are not intended to restrict innovations and improvements in design or construction techniques. Accordingly, the Department may approve plans and specifications which contain deviations if it is determined that the respective intent or objective of this Chapter has been met.

(b)

A nursing facility may submit a request for exception or temporary waiver if the rules in this Chapter create an unreasonable hardship, or if the design and construction for the nursing facility property offers improved or compensating features with equivalent outcomes to this Chapter.

(c)

The Department may permit exceptions and temporary waivers of this Chapter if the Department determines that such exceptions or temporary waivers comply with the requirements of 63 O.S. Section 1-1901 et seq., and the following: (1) Any nursing facility requesting an exception or temporary waiver shall apply in writing on a form provided by the Department. The form shall include: (A) The section(s) of this Chapter for which the exception or temporary waiver is requested; (B) Reason(s) for requesting an exception or temporary waiver; (C) The specific relief requested; (D) Any supporting requirements in the Facility Guidelines Institute (FGI): Guidelines for Design and Construction of Residential Health, Care, and

Support Facilities, 2014 Edition; and (E) Any documentation which supports the application for exception. (2) In consideration of a request for exception or temporary waiver, the Department shall consider the following: (A) Compliance with 63 O.S. Section 1-1901 et seq.; (B) The level of care provided; (C) The impact of an exception on care provided; (D) Alternative policies or procedures proposed; (E) Compliance with the Facility Guidelines Institute (FGI): Guidelines for Design and Construction of Residential Health, Care, and Support Facilities, 2014 Edition; and (F) Compliance history with provisions of the Life Safety Code and this Chapter. (3) The Department shall permit or disallow the exception or waiver in writing within forty-five (45) calendar days after receipt of the request. (4) If the Department finds that a request is incomplete, the Department shall advise the nursing facility in writing and offer an opportunity to submit additional or clarifying information. The applicant shall have thirty (30) calendar days after receipt of notification to submit additional or clarifying information in writing to the Department of Health, or the request shall be considered withdrawn. (5) A nursing facility which disagrees with the Department's decision regarding the exception or temporary waiver may file a written petition requesting relief through an individual proceeding pursuant to OAC 310:2 (relating to Procedures of the State Department of Health). (6) The Department may revoke an exception or temporary waiver through an administrative proceeding in accordance with OAC 310:2 and the Oklahoma Administrative Procedures Act upon finding the nursing facility is operating in violation of the exception or temporary waiver, or the exception or temporary waiver jeopardizes patient care and safety or constitutes a distinct hazard to life. (7) The Department shall publish decisions on requests for exceptions and waivers and make them available to facilities and the public.

(1)

Any nursing facility requesting an exception or temporary waiver shall apply in writing on a form provided by the Department. The form shall include: (A) The section(s) of this Chapter for which the exception or temporary waiver is requested; (B) Reason(s) for requesting an exception or temporary waiver; (C) The specific relief requested; (D) Any supporting requirements in the Facility Guidelines Institute (FGI): Guidelines for Design and Construction of Residential Health, Care, and Support Facilities, 2014 Edition; and (E) Any documentation which supports the application for exception.

(A)

The section(s) of this Chapter for which the exception or temporary waiver is requested;

(B)

Reason(s) for requesting an exception or temporary waiver;

(C)

The specific relief requested;

(D)

Any supporting requirements in the Facility Guidelines Institute (FGI): Guidelines for Design and Construction of Residential Health, Care, and Support Facilities, 2014 Edition; and

(E)

Any documentation which supports the application for exception.

(2)

In consideration of a request for exception or temporary waiver, the Department shall consider the following: (A) Compliance with 63 O.S. Section 1-1901 et seq.; (B) The level of care provided; (C) The impact of an exception on care provided; (D) Alternative policies or procedures proposed; (E) Compliance with the Facility Guidelines Institute (FGI): Guidelines for Design and Construction of Residential Health, Care, and Support Facilities, 2014 Edition; and (F) Compliance history with provisions of the Life Safety Code and this Chapter.

(A)

Compliance with 63 O.S. Section 1-1901 et seq.;

(B)

The level of care provided;

(C)

The impact of an exception on care provided;

(D)

Alternative policies or procedures proposed;

(E)

Compliance with the Facility Guidelines Institute (FGI): Guidelines for Design and Construction of Residential Health, Care, and Support Facilities, 2014 Edition; and

(F)

Compliance history with provisions of the Life Safety Code and this Chapter.

(3)

The Department shall permit or disallow the exception or waiver in writing within forty-five (45) calendar days after receipt of the request.

(4)

If the Department finds that a request is incomplete, the Department shall advise the nursing facility in writing and offer an opportunity to submit additional or clarifying information. The applicant shall have thirty (30) calendar days after receipt of notification to submit additional or clarifying information in writing to the Department of Health, or the request shall be considered withdrawn.

(5)

A nursing facility which disagrees with the Department's decision regarding the exception or temporary waiver may file a written petition requesting relief through an individual proceeding pursuant to OAC 310:2 (relating to Procedures of the State

Department of Health).

(6)

The Department may revoke an exception or temporary waiver through an administrative proceeding in accordance with OAC 310:2 and the Oklahoma Administrative Procedures Act upon finding the nursing facility is operating in violation of the exception or temporary waiver, or the exception or temporary waiver jeopardizes patient care and safety or constitutes a distinct hazard to life.

(7)

The Department shall publish decisions on requests for exceptions and waivers and make them available to facilities and the public.