

# Internal Memo

Date: December 5, 2024
To: Nursing Home Workforce Standards Board
From: Leah Solo

## RE: Process for Evaluating Applications for Waivers and Variances

Below is a draft process for evaluating applications for waivers and variances based on workgroup conversation. This memo is for internal planning purposes.

### Application path

### Application Timeline to make decisions before 2025, ongoing for 2025

This process below is meant to give nursing home employers an opportunity to receive a waiver or variance before January 1, 2025 (the first holiday of 2025) and another opportunity to receive a waiver or variance before January 20, 2025 (the second state holiday in 2025.)

* December 5, 2024- Waiver and Variance Workgroup, Full Board Meetings
* December 10, 2024- Application materials posted, potential gov delivery email
* December 17, 2024- Deadline to submit materials and receive a decision before the end of the year
* December 19, 2024- Committees review application received by December 17, 2024.
* December 20, 2024- Special meeting of the Board to make decisions.
* January 2-8, 2025- Committees review any additional applications received.
* January 9, 2025- Waivers and variance applications becomes a regular standing item on Board meeting agendas. Recommendations from committee reviewed.

### Evaluation Criteria

Below is the criteria the workgroup has discussed so far. The workgroup/Board could consider simplifying for Holiday pay, given that the general consensus has been that anyone applying for a waiver from holiday pay would certainly be in a serious situation.

1. Evaluating the Application
* Have all parts of the application been submitted?
* Do their financials put them in a situation that is at risk for closure or receivership with the added cost of the NHWSB standards?
	+ At what point is an applicant considered “at risk of closure or receivership?”
* How did the applicant prove their financial distress? What documents show that the applicant is at risk of closure and receivership, and how close to closure or receivership are they?
	+ Are there other alternatives to bridge the gap besides a waiver or variance, such as a financially stable parent organization?
	+ Are there other options, such as renegotiation with related parties, that could change their financial situation?
* Is there a rate increase or other solution on the horizon?
1. Evaluating the requested variance/waiver
* Does the request meet the need? Is it too much waived/varied or too little?
1. Evaluating the timeline
* Is there a plan to come into compliance with the NHWSB standards reasonable?
* What do we expect their rates to do in the near future?
1. Potentially relevant information to which the Board already has access
* Have they applied for/been granted status as a critical access nursing facility?
* Have they applied for/been granted a Distressed Nursing Home Loan?
	+ If they received that loan, was part of the loan to be able to pay for the NHWSB standards?
	+ If they received that loan, what was the amount and timeline for the loan?
* Are they operating under any financial penalties based on their inability to comply with regulations?
* Do they receive any rate add-ons in excess of their cost-based value-based reimbursement rates?
1. Determining the type of waiver or variance
* The Board will be able to waive/vary in a number of ways
	+ The minimum wage could be made less for one or more wages.
	+ The timeline could be extended so that the minimum wages do not go into effect for the facility until later.
	+ The standards could be completely waived for a specific amount of time.