

## Minutes: NHWSB Waiver Review Workgroup

Date: Monday, June 9, 2025

Minutes prepared by: Linnea Becerra

Location: Hybrid – Washington Room at the Department of Labor and Industry and via Webex

### Attendance

Members present	Visitors present	DLI staff members present
Jamie Gulley	Todd Bergstrom (remotely)	Linnea Becerra
Paula Rocheleau (remotely)	Jeff Bostic	Paul Enger
	Brian Elliott (remotely)	Ken McGurran (remotely)
		Leah Solo

### Agenda items

1. **Call to order** – the meeting was called to order by Executive Director Leah Solo at 10:01 a.m. Roll call was taken. A quorum was declared.
2. **Approval of agenda** – a motion to approve the agenda as presented was made by Jamie Gulley and seconded by Paula Rocheleau. A roll call vote was taken and the motion passed unanimously.
3. **Approval of drafted meeting minutes** – no drafted minutes were approved, because this was the inaugural meeting.
4. **Board updates** –
  - Solo gave background on the application that was received at 2:56 p.m., Thursday, June 5, just before the deadline. Staff members worked to coordinate the meeting and redact sensitive information (for example, the names of nursing homes and staff members). Materials were posted on SharePoint for review.
  - Rocheleau asked what would qualify a facility for a waiver. Solo first reviewed the statute that requires a risk of closure or receivership due to compliance with applicable standards as the basis for granting a waiver or variance. She reviewed the process for review and highlighted factors for consideration: submission completeness; risk of closure or receivership due to financial stress; evidence of financial distress (for example, losses, lack of reserves); availability of alternatives to offset financial impact; specific request evaluation (such as, is the amount and timeline justified) plans to come into compliance (waivers are temporary); and external factors (for example, grants, penalties, additional revenue sources).
  - Solo summarized the application including the holiday pay policy as it applies to the request for relief. The applicant's stated holiday pay policy is that staff members at the facility who work half-time or more are included in a holiday rotation and currently do not get holiday pay if they are scheduled to work a holiday as part of the rotation. Using the provided work page, Solo explained

the facility estimates the total cost of each holiday under these standards is \$9,000 per new holiday, resulting in annual total cost of \$81,000.

- Rocheleau brought up that it seems it is a unique circumstance given the paid time off (PTO) policy and that it has had substantial losses, but is trying to stay afloat. Gulley brought up that the applicant's materials show 162 days cash on hand, which he found significant and much more than would be needed to pay for holiday pay. Todd Bergstrom speculated the substantial cash on hand is likely from selling assets. The group discussed the facility's decision to sell assets and move reserves to cover the cost of the holiday pay standards.
- Gulley brought up that it has \$175 million in assets, making an \$81,000 expense seem manageable, and though it has had some hardships, those hardships would not justify the workers not getting holiday pay.
- Jeff Bostic posited this is likely a hospital attached nursing home, making it tricky to understand its finances. Bergstrom agreed it is likely hospital attached and pointed out the hospital might be subsidizing the nursing home, sharing that many hospital attached nursing homes have closed and this may be an organizational issue not a nursing home issue.
- Solo asked if the group would like more information, such as if they are critical access or received a distressed nursing home loan. Bergstrom said just knowing it is operating with a \$6 million loss would mean all parts of the organization would be working to fix its finances. Rocheleau pointed to the legislation that would potentially cap rates that would hurt the nursing home even more and said she would have a hard time saying no to this application. Gulley emphasized that with \$175 million in assets, an \$81,000 expense is unlikely to push it to closure or receivership, so if a waiver was granted in this case, it would mean any facility projecting to have a tough year could be granted a waiver.
- Gulley also pointed to the audited financials that state the facility has \$55 million in long-term investments, which others had not seen earlier. Gulley suggested denying this waiver, but asking them to resubmit after the special legislative session concludes, with more evidence of being at risk of closure or receivership. Rocheleau said she was not comfortable denying it, given the special session is almost over. Gulley mentioned it could get additional money from the legislation being debated in the special session and the board would not want to grant a waiver for two years, and then the organization would have what they need to operate from the legislative budget.
- Bergstrom said the size of the expense was not the criteria, but that the workgroup must look at the financial metrics to see if it is on a trajectory to close. Bergstrom said this facility is clearly not in a good place financially and that asking for this waiver is one thing it is doing to try to get the organization on firm ground. Bostic said it is probably not going to go into receivership with the assets it has, but closure is a different question. Bergstrom agreed. Solo asked for more information on this point and Bostic offered that the organization may say that due to the standards and the cap at the Legislature, the organization cannot salvage the nursing home. Rocheleau agreed that sometimes an organization will decide it cannot put the rest of the organization at risk to keep the nursing home. Rocheleau said this was an unusual one for the workgroup's first one, because it is not very cut and dried.
- Gulley and Rocheleau discussed some different reasons for closure, positing the workgroup did not necessarily know all the information, based on the application, and some items would help moving forward. Solo summarized that the workgroup would like her to ask the organization if it has

additional information that could more clearly demonstrate how the standards would cause closure or receivership, if it has more of a break out of the nursing-home-specific financials and if the state's as yet undecided budget will likely change its financial trajectory. Bergstrom added the board should ask if it is limited under VBR and if they are an equitable cost-sharing for publicly owned nursing facilities (ECPN) facility.

- Solo summarized the report to the board would be that the group had discussion. Rocheleau added that this was not necessarily the application they expected to be evaluating, being it has combined financials.
- Solo mentioned reworking the application deadline to allow for more time to review during future situations. Members agreed and Solo will bring it to the full board at its next meeting.

5. **New business** –

6. **Next meeting** – the next meeting is Thursday, July 3, at 11 a.m.

## Adjournment

A motion was made by Rocheleau to adjourn the meeting at 10:58 a.m. and seconded by Gulley. A roll call vote was taken and the motion passed unanimously.