

Minutes: NHWSB Waivers and Variances Workgroup

Date: Tuesday, Oct. 29, 2024

Minutes prepared by: Linnea Becerra

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

Attendance

Members present

Kim Brenne

Jamie Gulley (remotely)

Maria King (remotely)

Katie Lundmark

Visitors present

Todd Bergstrom

Jeff Bostic

Brian Elliott (remotely)

DLI staff members present

Linnea Becerra

Paul Enger

Leah Solo

Agenda items

1. **Call to order** – the meeting was called to order by Executive Director Leah Solo at 2:04 p.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 Kim Brenne. A roll call vote was taken and the motion passed unanimously.
3. **Approval of drafted meeting minutes** – a motion to approve the Oct. 2, 2024, drafted meeting minutes as presented was made by Gulley and seconded by Brenne. A roll call vote was taken and the motion passed unanimously.
4. **Board updates** –
 - Executive Director Solo laid the plan for the meeting – get through the possible application elements in the memo for an overall process, not differentiating for the provisional waiver yet.
 - Brenne asked if the waivers were for the holiday pay, the wage standards or both. Solo clarified the waivers as outlined in statute are for risk-of-closure or receivership based on the standards (broadly).
 - Brenne suggested the group work on deciding items that have consensus and then working through the controversial items.
 - Katie Lundmark brought up common issues during a receivership as outlined on the [Minnesota Department of Health website](#), such as health and safety violations (agreed upon as not relevant to

this board), payroll and insurance, money and capital, cost tracking and information technology. The group discussed what would cause a facility to fall into threat of receivership and it was proposed cash flow, budget and cost, financial statements and ratios were items that could be submitted to be granted a waiver. Todd Bergstrom said it should be budget, revenue rates, payables and receivables. There was clarification around cash-flow statements, resulting in an agreement an operating budget and days in accounts receivable would be part of the application.

- There was a suggestion to pick a date for accounts payable and receivable as a measurement, but there was also a concern some facilities might, as a habit, wait to pay their bills even if they have the money to pay. A suggestion was made to ask the nursing home auditor team to provide a recommended days of cash on hand, days receivable and days payable. Requesting a certified public accountant (CPA) firm to analyze the numbers was also suggested.
- Bergstrom offered benchmark information he and Jeff Bostic have prepared in the past.
 - Brenne notes the board should use a scoring matrix and that scoring the application will result in a number. Solo summarized, for the group, that it sounds like there is a certain ratio or numbers the board wants to see and that will determine if a waiver is granted.
 - Maria King asked if a nursing home would apply for a holiday-pay waiver or a minimum-wage waiver; Solo clarified that in a statement of need, the nursing home would state the kind of variance it is seeking, why it is needed and how long it will need to be in place.
 - Gulley said it is important for each application to state what the specific needs are and for that facility to provide whatever documentation it believes will support its request. This would be in lieu of the board providing a checklist of items to submit.
 - The group discussed the timing of waivers being issued and the duration of their active status. It was concluded that when a facility is meeting the standard, it is pretty unlikely it will not be able to meet it in the future and the goal is for a waiver to be in use only until the facility can meet the standards – and then not be needed again.
 - King brought up that if a facility cannot pay its workers the higher wage in the beginning, when the reimbursements come in later, they will not receive the higher amount because they did not pay it in the first place. Gulley clarified that because reimbursement rates are an average, if most nursing homes are paying the increased rate, then a nursing home using a waiver would still receive the higher reimbursement rates. Brenne said the same could be true if most of the nursing homes in a region were paying less – the average would then be lower.
 - The next steps are to determine what the demonstrable numbers are for a waiver.

5. New business –

6. Next meeting – the next meeting is Thursday, Nov. 7, at 8:30 a.m. in the Washington Room.

Adjournment

A motion was made by Lundmark to adjourn the meeting at 3:07 p.m. and was seconded by Gulley. A roll call vote was taken and the motion passed unanimously.