

Minutes: NHWSB Waivers and Variances Workgroup

Date: Thursday, Dec. 5, 2024

Minutes prepared by: Linnea Becerra

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

Attendance

Members present

Kim Brenne (remotely)

Jamie Gulley

Maria King

Katie Lundmark (remotely)

Visitors present

Todd Bergstrom (10:15)

Erin Huppert

DLI staff members present

Ali Afsharjavan (remotely)

Linnea Becerra

Paul Enger

Leah Solo

Agenda items

1. **Call to order** – the meeting was called to order by Executive Director Leah Solo at 10:02 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 Maria King. A roll call vote was taken and the motion passed unanimously.
3. **Approval of drafted meeting minutes** – a motion to approve the Dec. 2, 2024, drafted meeting minutes as presented was made by Gulley and seconded by King. A roll call vote was taken and the motion passed unanimously.
4. **Board updates** –
 - Executive Director Solo discussed the tracked changes that were made to the draft application.
 - Kim Brenne suggested adding the words “completed and legible” to the application and amend the application to say “During the application *review* period.”
 - There was discussion, led by Katie Lundmark and Brenne, about the “Operating budget” section of the draft application. It was settled that the dates would be removed and replaced with the current fiscal-year and the next fiscal-year operating budgets. It was decided this would give the review committee a fuller picture of the budgets and the application would not need to be changed each year to reflect the new dates.

- Solo presented the “Cost of holiday pay” spreadsheet. She spoke about the desire of the workgroup to have a simple and clear form. Todd Bergstrom shared his spreadsheet with the group.
- Solo updated the timeline for applications submitted before Dec. 17, 2024, and applications submitted before January. There was concern by board members about the short turnaround between the application due date and the effective date (Jan. 1, 2025).
- The group discussed different types of variances and waivers that facilities can apply for, such as adding five additional holidays, getting up to 11 paid holidays, etc. These variances will be reviewed throughout the year as they come in and will have a standing spot on the regularly scheduled board meeting agendas. Brenne suggested that instead of writing dates in the application, the application could state they will be reviewed in “X” number of business days, 30 to 45 for example. Lundmark suggested the Waiver Review Workgroup meetings be set the week before the regular board meetings for review and full board approval. Brenne reminded the group that the tight timeline for end-of-year 2024 is an expedited timeline that will not happen each year.
- Bergstrom asked about facilities that need to apply for a waiver or variance because they just realized the rules went into effect and are not prepared for the turnaround. Solo reminded the group that waivers and variances for the rule exist to assist facilities that are at risk of closure or receivership per statute, not due to lack of planning or preparation. King suggested sending messages to the email list on file in GovDelivery.
- Solo and Paul Enger discussed the data questions. The board can review the applications anonymously, redacting identifying information. The board is not able to “chill” the data or delay the data requests. Enger explained that government data is presumed public and that, absent statutory guidance, data from the board would be available to the public should it be requested. Erin Huppert pointed out that the board is creating conditions for a nursing home to seek a waiver in good faith and asked if a nursing home could be penalized under the conditions of participation if they are also in the process of closure with the Minnesota Department of Health. There was discussion around this; it was stated that the Minnesota Department of Health or the Minnesota Department of Administration, which govern data, could weigh in on this topic. Enger said again that the data submitted should be presumed public unless specifically stated otherwise.
- Solo will edit the application based on the feedback from the group and bring the edited version to the full board meeting this afternoon for a vote.

5. New business –

6. Next meeting – the next meeting is July 24 at 3 p.m.

Adjournment

A motion was made by King to adjourn the meeting at 11:08 a.m. and seconded by Gulley. A roll call vote was taken and the motion passed unanimously.