



STATE OF WASHINGTON  
DEPARTMENT OF SOCIAL AND HEALTH SERVICES  
*Aging and Long-Term Support Administration*  
*PO Box 45600, Olympia, Washington 98504-5600*

August 30, 2019

**AL TSA: NH #2019-016**  
**EXCEPTION TO 24 HOUR REGISTERED NURSE STAFFING REQUIREMENT**

Dear Nursing Facility/Home Administrator:

In 2015, Substitute House Bill (SHB) 1274 was passed into law and required all large, nonessential nursing homes (NHs) as defined in the law to have 24-hour Registered Nurse (RN) coverage. In the 2016 legislative session, SHB 2678 was passed into law and added exceptions to the RN staffing requirements. In August of 2016, Residential Care Services (RCS) implemented a process for a nursing home to request an exception to the 24 hour RN requirement and issued an Administrator letter (NH #2016-023) describing the process.

The purpose of this letter is to update the information in NH #2016-023 and to further clarify some aspects of the exception process.

The RN staffing requirements and the standards for granting an exception are found in [74.42.360 RCW](#) and [388-97-1080 WAC](#). Facilities may apply for an exception by submitting a written request outlining the reason for the request, and supporting documentation to Candace Goehring, Director, Residential Care Services. It may be mailed to P.O. Box 45600, Olympia, WA 98504-5600 or emailed to her administrative assistant at [tricia.harmon@dshs.wa.gov](mailto:tricia.harmon@dshs.wa.gov).

RCS will use the following guidelines to manage the exception process:

- Exception requests will be reviewed at least monthly by a committee of RCS personnel and approval/denial letters will be mailed within 48 hours of determination.
- All approved exceptions will be valid for one year from the date of approval and will not automatically be renewed. A renewal letter with supporting documentation must be submitted to RCS if a facility wants to be considered for a renewed exception.
- Exceptions may not be granted for RN coverage that is less than 16 hours.
- For the purposes of the exception process of the 24/7 RN rule only, the department defines "consecutive" as 30 days or less between the expiration date of the previous exception and the approval date of the subsequent exception.
- If the provider has been granted three previous exceptions that were consecutive, the department will not grant a fourth consecutive exception. Please see the matrix that follows for examples of how the exception process will be implemented under different circumstances.

Scenario for Requests	Process
1. A facility has requested and been granted 3 exceptions. All 3 exceptions are consecutive (30 days or fewer between the expiration of one exception and the approval of the subsequent exception).	<ul style="list-style-type: none"><li>• If a fourth exception is requested that is consecutive to the third exception, it will not be considered.</li><li>• If a fourth exception is requested that is <u>not</u> consecutive to the third exception, the department will consider the request using the criteria described above.</li></ul>

Scenario for Requests	Process
2. A facility has requested and been granted 3 exceptions. The first and second exceptions were not consecutive, but the second and third exceptions were consecutive.	<ul style="list-style-type: none"> <li>• A fourth exception request may be considered by the department, whether it is requested consecutive to the third exception or not.</li> <li>• If a fourth consecutive request is granted, the following (fifth) exception request will not be considered if it is consecutive to the fourth.</li> <li>• If a fourth non-consecutive request is granted, the following (fifth) exception request will be considered, whether it is consecutive or non-consecutive to the fourth exception.</li> </ul>
3. A facility has requested and been granted 2 exceptions that are not consecutive.	<ul style="list-style-type: none"> <li>• A third exception will be considered by the department, regardless of whether it is consecutive to the second request or not.</li> </ul>

- For nursing homes requesting a new exception after three previous exceptions have been approved (whether or not any previously granted exceptions were consecutive), additional information may be requested by the department to evaluate the facility's good faith attempt to meet the 24 hour staffing standard. This may include:
  - Verifiable wage and benefit data, and the competitiveness of the wages and benefits compared to other nursing homes in the same geographical area.
  - Quality of care and staffing standards maintained by the facility (review of compliance history, interviews with residents, interviews with complaint investigators or surveyors).
  - Recruitment and retention efforts.
  - Review of any extenuating circumstances that challenge the facility's ability to hire and/or retain RNs.
- All exceptions are granted at the discretion of RCS. Exception decisions are based on demonstration of a good faith effort to hire RNs, including but not limited to an evaluation of wages and benefits offered by the nursing home, and the availability of RNs in the geographical area of the nursing home.


If a registered nurse is not on-site and readily available to complete full assessments during a shift, the department may limit the admission of new residents (based on the resident's medical conditions or complexity) during this period for the particular shift that a RN is not on-site or readily available.

Please keep in mind, facilities are responsible to meet the health and safety needs of residents, regardless of staffing and staffing exception status.

RCS will be initiating rulemaking to further clarify this process.

Thank you for your continued commitment to resident health and safety. If you have any questions, please contact Lisa Herke, Nursing Home Policy Program Manager at [lisa.herke@dshs.wa.gov](mailto:lisa.herke@dshs.wa.gov) or (509) 225-2819 or your RCS Field Manager.

Sincerely,



Candace Goehring, Director  
 Residential Care Services

DSHS: "Transforming Lives"