



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

October 6, 2023

**AL TSA: NH #2023-032**

**RESUMING THE EXCEPTION REQUESTS TO THE 24- HOUR RN STAFFING REQUIREMENT  
AND PROCESS UPDATE**

Dear Nursing Facility/Home Administrator:

We are writing to provide you with important updates regarding the 24-hour Registered Nurse (RN) staffing requirement and the exception process in response to the COVID-19 public health emergency (PHE). Effective immediately, Residential Care Services (RCS) is accepting exception requests to WAC 388-97-1080(3)-(8). This Dear Provider Letter supersedes NH #2016-023 and NH #2019-016.

**Background:**

In 2015, the legislature enacted a law that required all large, non-essential nursing homes (NHs) to maintain 24-hour RN coverage. In August of 2016, RCS implemented a process for a NH to request an exception to the 24-hour RN requirement. The governor's proclamation 20-18, created during the PHE, suspended RCW 74.42.360(3)(4) and WAC 388-97-1080(3) through (8). Subsequent proclamations, Senate Concurrent Resolution (SCR) 8402, and Minimum Staffing Standards emergency rules under WSR 23-05-041 and WSR 23-12-069, extended these suspensions. These RCW and WAC suspensions will be lifted and WAC 388-97-1080 will go back into effect October 27, 2023.

*Effective immediately, RCS is accepting exemption requests to WAC 388-97-1080(3)-(8).*

**Residential Care Services (RCS) has implemented a process for a NH to request an exception to the 24-hour RN requirement as follows:**

- All exceptions should include a letter outlining the reason(s) for the request, along with any available supporting documentation (recruitment flyers, job advertisements, any incentives or bonuses the facility may offer, etc.).
- Please email requests to: [nh247rnexceptionrequest@dshs.wa.gov](mailto:nh247rnexceptionrequest@dshs.wa.gov).
  - Upon submission, you will receive an automatic reply confirming the submission of the exception request. Please retain a copy for your records as proof of submission until you receive a final letter of approval or denial.
- All standard mail exception requests must be sent addressed to the RCS director at:  
**Director of Residential Care Services**  
**Aging and Long-term Support Administration**  
**P.O. Box 45600**  
**Olympia, WA 98504-5600**
  - Please note that standard mail requests may be delayed for consideration, as reviewers aren't available in the office every day.

**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.
- 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.
- If a facility wishes to extend an exception, a new request with current supporting documentation must be submitted to RCS prior to the expiration of the approved exception expires.

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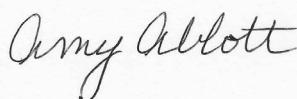
- Exceptions may not be granted for RN coverage that is less than 16 hours.
- For the purposes of the exception process of the 24/7 RN rule only, the department defines “consecutive” as 30 days or less between the expiration date of the previous exception and the approval date of the subsequent exception.
- 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. 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> |
| 2. 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>   |
| 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>   |

Please keep in mind, 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.

If you have any questions, please contact Molly McClintock, Nursing Home Policy Program Manager, at (360) 742-6966 or [molly.mcclintock@dshs.wa.gov](mailto:molly.mcclintock@dshs.wa.gov).

Sincerely,



Amy Abbott, Director  
Residential Care Services

DSHS: “Transforming Lives”