

EAGLES LAW STAFFING RATIO WAIVER APPLICATION

Skilled nursing facilities may complete this form to request a shift ratio waiver. Provide complete information so that the Delaware Residents' Protection Commission (DRPC) has the necessary information to grant or deny your request in a timely manner. As part of your application, you must attach a copy of the most recent facility assessment as directed by the Centers for Medicare and Medicaid Services (see details at **F838, 483.71 and Memo QSO-24-13-NH**).

Note: This application has 3 sections.

- | | |
|-----------|---|
| Section A | Completed by SKILLED NURSING FACILITIES.
Upon completion of Section A, email the form to:
DHSS_DHCQ_Staffing@delaware.gov
EaglesLawWaiver@delaware.gov |
| Section B | Completed by the DIVISION OF HEALTHCARE QUALITY (DHCQ).
Complete form within 5 working days and email entire form to:
EaglesLawWaiver@delaware.gov |
| Section C | Completed by the DELAWARE RESIDENTS' PROTECTION COMMISSION (DRPC)
Complete review within 10 working business days and notify facility with a copy to DHCQ. |

Incomplete forms will be rejected.

Additional information and instructions can be found at the end of this application.
An electronic training resource is available to accompany this form.

SECTION A

To be completed by skilled nursing facility.

1. Name and date of hire of current Nursing Home Administrator: Click or tap here to enter text.
Name and date of hire of current Director of Nursing: Click or tap here to enter text.
2. Census: Click or tap here to enter text.
Total Beds: Click or tap here to enter text.
What census would allow you to meet the minimum staffing ratio? Click or tap here to enter text.
3. Does your facility have a specialty or secured unit(s), if so, specify type(s) (dementia, ventilator; etc.) or provide specialty services (hemodialysis; rehab; etc.)? If so, please describe.
Click or tap here to enter text.
4. Is your facility accepting new admissions? ☐ YES ☐ NO

If yes, what type of admissions? Check all that apply.
☐ Long-term
☐ Rehabilitation
☐ Specialty: Click or tap here to enter text.

When was the last resident admitted? Click or tap here to enter text.

Has the facility restricted admissions in order to comply with the staffing ratio requirement?
☐ YES ☐ NO
If yes, please provide details: Click or tap here to enter text.
5. Describe situations at the facility within the last 90 days that have affected staffing (barriers to hiring, workforce reductions, change of ownership, etc.).
Click or tap here to enter text.

EAGLES LAW STAFFING RATIO WAIVER APPLICATION

6. Are there certain days or shifts when you are having difficulty meeting the required staffing ratios?

Click or tap here to enter text.

7. Do you use agency personnel to ensure that you meet the minimum staffing requirements? Include a spreadsheet showing agency usage over the last 6 months (include RN Supervisor, RN, LPN and CNA). If you do not use agency staffing, please explain the reason you do not.

Click or tap here to enter text.

8. If the facility does use agency staffing, please respond to the following:

- Does the facility provide an orientation to new agency staff?

☐ YES ☐ NO

If so, please describe orientation process: Click or tap here to enter text.

- Do new agency personnel work independently or with a “buddy”? Please explain: Click or tap here to enter text.

9. Does the facility utilize employee overtime to attempt to meet the staffing ratio requirement?

☐ YES ☐ NO

If so, please include a spreadsheet showing overtime per classification (CNA, LPN, RN) for the last 6 months.

10. If your waiver is granted, what are your staffing ratio goals?

(The facility must maintain a 3.28 HPRD. Be specific regarding your ratios for RNs, LPNs and CNAs on all shifts.)

Click or tap here to enter text.

11. What is your plan of correction to ensure that this does not happen again? Are there potential solutions or resources that could be put in place to solve or alleviate staffing shortages overall?

Click or tap here to enter text.

12. What other supports are/may be available during the requested waiver period?

Check all that apply:

EAGLES LAW STAFFING RATIO WAIVER APPLICATION

- ☐ Trainees from clinical programs
- ☐ Volunteers in the following areas: [Click or tap here to enter text.](#)
- ☐ Extra staff from other disciplines (AT, OT, PT, etc.)
- ☐ Staff from other disciplines working overtime
- ☐ Any other supports – please describe: [Click or tap here to enter text.](#)

13. Provide staff (CNA, LPN, RN) turnover per quarter for the past year.

[Click or tap here to enter text.](#)

- What is the hourly starting salary for each position type? [Click or tap here to enter text.](#)
- What actions has the facility taken to improve staff retention in the past year? [Click or tap here to enter text.](#)

Name of person completing Section A of this form: [Click or tap here to enter text.](#)

Signature

Date: [Click or tap here to enter text.](#)

SECTION B

To be completed by the Division of Health Care Quality (DHCQ).

1. Does this facility have a history of citations, staffing problems, fines in the last two years?

(Please include any pertinent information for the DRPC to consider.)

[Click or tap here to enter text.](#)

2. Attach the facility staffing numbers (ratios and HPRD) for the last 6 months, as routinely determined by the DHCQ.

Comments: [Click or tap here to enter text.](#)

3. Have any staffing-related complaints (lack of staff, avoidable pressure ulcers, failure to change incontinent products, dehydration, falls, medication errors, healthcare associated infections, etc.) been filed against the facility in the past year? If so, please attach the complaint(s) and any investigation/survey.

[Click or tap here to enter text.](#)

4. Any other information the DHCQ feels would be appropriate for the DRPC to consider regarding the approval/denial of a request for staffing ratio waiver?

[Click or tap here to enter text.](#)

5. Does DHCQ recommend approval of the staffing ratio waiver request?

☐ YES ☐ NO

Name of person completing Section B of this form: [Click or tap here to enter text.](#)

Signature

Date: [Click or tap here to enter text.](#)

SECTION C

To be completed by the DELAWARE RESIDENTS' PROTECTION COMMISSION (DRPC).

1. Patterns of non-compliance and staffing issues are noted.

☐ YES - explain: Click or tap here to enter text.
☐ NO

2. The Nursing Home Administrator or the Director of Nursing has changed within the last year.

☐ YES – list date(s): Click or tap here to enter text.
☐ NO

3. The facility has used agency staff and employee overtime within the last year to meet the minimum staffing ratios requirement.

☐ YES - note percentage of RN, LPN & CNA agency staff utilized, and the amount of overtime used: Click or tap here to enter text.
☐ NO

4. Has the facility limited admissions in order to meet the minimum staffing ratio requirement?

☐ YES
☐ NO

5. Is their underlying cause explanation realistic and thorough?

☐ YES
☐ NO

Comments: Click or tap here to enter text.

EAGLES LAW STAFFING RATIO WAIVER APPLICATION

6. Are proposed solutions realistic, sufficient, sustainable, measurable and actionable?

☐ YES

☐ NO

Comments: [Click or tap here to enter text.](#)

7. Waiver is: ☐ APPROVED ☐ DENIED

Signature of DRPC Representative

Date: [Click or tap here to enter text.](#)

EAGLES LAW STAFFING RATIO WAIVER APPLICATION

INSTRUCTIONS AND GUIDELINES

This process is required by Delaware Code:

16 DE CODE, Chapter 11, § 1168. Waiver.

A residential health facility may seek from the Delaware Residents' Protection Commission a time-limited waiver of the minimum staffing requirements required under § 1162(c) and (e) of this title. Such waiver will only be granted upon a showing of exigent circumstances, including but not limited to documented evidence of the facility's best efforts to meet the minimum staffing requirements under § 1162(c) and (e) of this title. Any such waiver will be time-limited and will include a plan and a timeline for compliance with this chapter. The Commission may seek input from the Department of Labor in terms of issues of labor availability in connection with any waiver request under this section.

Virtual education will be provided on the use of this form.

Waivers may be granted by the DRPC for staffing ratios only. Facilities must continue to meet the required hours per resident per day (HPRD) of care.

The facility must continue to provide adequate staffing to meet the individualized needs of each facility resident.

Facilities must note on the application if this is the first waiver application submitted by the facility. If it is not the first application, facilities should note the date of the previous application(s) and whether it was/they were approved.

Forms are to be downloaded from the DHCQ website by the Facility.

Facility will complete Section A of the form.

Facility will then email the form with Section A complete to the Director of the Division of Health Care Quality and the DRPC Executive Director.

Email addresses for the completed forms:

DHSS_DHCQ_staffing@delaware.gov

Eagleslawwaiver@delaware.gov

DRPC will keep the completed Section A on file for informational purposes.

DHCQ will complete Section B within 5 working days and will forward the completed Sections A and B to the DRPC.

DRPC will complete review of the form within 10 working days and will respond to the facility with a copy to the DHCQ.

Incomplete forms will be rejected.

Staff ratio waiver requests will be granted for a maximum of 90 days.

EAGLES LAW STAFFING RATIO WAIVER APPLICATION

Waivers may be renewed for an additional 90 days (total 180 days) with sufficient evidence that there has been improvement or that measures have failed and other avenues for resolving staffing issues have been/are being implemented/proposed.

The facility should be continuously monitoring their corrective actions to determine if there is improvement. If there is not improvement, they should be implementing other corrective actions.

DHCQ has the authority to enforce staffing ratios for Skilled Nursing Facilities.

The waiver will be terminated immediately if it is discovered that the facility failed to comply with the term(s) of the waiver.

A waiver is granted for a specific timeframe and the response from the DRPC will include the start and end date for the waiver.

The DRPC has no liability for incidents that may occur in a facility due to short staffing.

Should you have any questions about any part of this form, instructions or the information required, please contact the Executive Director of the DRPC.

Frequently Asked Questions (FAQs)

Q – Why do you need to know the date of hire for the Administrator and Director of Nursing?

A - It is important to know if a Nursing Facility's Administration is new. A new administration may need time to correct past deficiencies and create a culture of trust and respect.

Q – Why do you need information about specialty units?

A - Information on specialty units or services will be helpful because sufficient/specialized staffing is crucial to the functioning of a specialized unit.

Q – Why do we have to provide so much information, such as advertisements used for recruiting?

A - Information regarding recruitment efforts (such as advertisements, use of a recruitment agency, increase in salaries, etc.) are important for the DRPC to make an informed decision. Barriers to bringing on new hires (such as background check barriers; no nurse educator for orientation) are also important considerations and may shine a light on other areas for advocacy. It is important to know if a workforce reduction was facility/corporate initiated or due to a staff exodus.

Q – Why do you need information about agency usage?

A - Use of agency personnel may show that the facility has been trying to resolve the situation.

Q – Why do you need to know about admissions?

A – It is important for the Commission to know if the facility is still accepting admissions despite not being able to meet staffing ratio requirements. In addition to noting when the last resident was admitted, the facility should also note what type of service the resident was admitted to (i.e. resident was admitted to the ventilator unit).

Q – What is the reason for asking about certain days, shifts or times of the year when the facility is having difficulty meeting the required staffing ratios?

A – The Commission believes that this information is important in properly addressing your needs. For example, if you are not able to meet the ratios on only the night shift, the Commission would be able to approve a waiver for the night shift only. It will also help inform future advocacy priorities.