

Janet T. Mills
Governor

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Commissioner



Maine Department of Health and Human Services
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Date: November 19, 2021

To: Nursing facility Administrators

RE: Letter of Guidance – waiver of minimum staff-to-resident ratios

Dear Nursing Home Administrator:

As the Public Health Emergency continues, we are seeing significant numbers of COVID-19 positive cases and increases in hospitalizations that are significantly challenging our healthcare system in Maine. Some hospitals are at or exceeding inpatient capacities and there is an immediate need for skilled nursing and nursing facility services to provide continuity of care to patients who no longer require acute hospital care.

In a recent survey of nursing facilities, we were informed that there are nursing facility beds available to assist hospitals with their need for discharges to skilled and nursing care facilities. Survey respondents indicated a willingness to admit some current hospital inpatients provided they could obtain a waiver of the State's minimum staff-to-resident ratios rule.

The current State of Maine Regulations Governing the Licensing and Functioning of Skilled Nursing Facilities and Nursing Facilities, 10-144 CMR Ch. 110, Section 9.A.4, require nursing homes to comply with minimum staff-to-resident ratios for occupied beds in nursing facilities. This requirement focuses primarily on licensed and certified staff such as Registered Nurses, Licensed Practical Nurses and Certified Nursing Assistants. The Division of Licensing and Certification (DLC) is aware that in addition to the State licensing staffing ratio rule, facilities must also comply with the federal Centers for Medicare and Medicaid Services Conditions of Participation, which do not specify staff ratios, but rather require sufficient staff to meet residents' needs.

As such, DLC will support a conditional waiver of 10-144 CMR Ch. 110, Section 9.A.4 (the minimum staff-to-resident ratios rule). To receive such a waiver, facilities must submit a written notice/attestation, on facility letterhead, to DLC advising that their facility intends to exercise this waiver of the minimum staff-to-resident ratios solely for the purpose of allowing the facility to assist the hospital(s) with admission of hospital patients needing admission to skilled and nursing facilities. DLC will provide an expedited approval of these waivers and continued approval is conditional on the facility submitting the number of new admissions the facility was able to admit and the name of the hospital from which the residents were admitted. The Conditional waiver will be valid for a period of 60 days. Renewal will be conditional upon the state of the Public Health Emergency and inpatient hospital capacity in Maine at the time.

If you have questions concerning this Letter of Guidance, please contact Lynn Hadyniak, Associate Director – Medical Facilities Unit, via email at Lynn.Hadyniak@maine.gov, or myself.

Respectfully,

A handwritten signature in black ink that reads "Bill Montejo". The signature is written in a cursive style with a long horizontal stroke extending to the right.

Bill Montejo, RN
Director, Division of Licensing and Certification
Department of Health and Human Services