



**CHA Template & Guidance:  
CDPHE Waiver Application – Failure to Meet Baseline Staffed Beds  
Pursuant to HB 22-1401**

**Background**

HB 22-1401 requires hospitals to maintain certain inpatient bed capacity, but also allows hospitals incapable of maintaining at least 80% of baseline capacity for 7-14 days to apply for a hardship waiver. CDPHE has a [universal application](#) for waivers of state regulations, as well as [instructions](#) and a template for [public notice](#) (required for all waiver applications) available on its website.

The following language and guidance (denoted with \*\*) may be used, at hospitals' discretion, to complete narrative portions of the CDPHE-authorized form.

**CDPHE Form Outline**

- ***[Contact Information Fields and Question 1 Omitted]***
- ***Question 2: Is waiver application submitted pursuant to building construction and/or fire safety?***  
No
- ***Question 3: What is the specific state regulation, Chapter, Section, and Subsection, that is the basis for the waiver application?***  
6 CCR 1011-1, Chap. 4, Sect. 7.2 (waiver permitted pursuant to Sect. 7.2(C)(3)(B))
- ***Question 4: Describe the state regulation in which the facility is requesting [sic]:***  
Sect. 7.2 establishes requirements for reporting baseline staffed bed capacity and for maintaining 80% of baseline staffed bed capacity. If hospitals are unable to maintain 80% of baseline for 7-14 consecutive days, they are eligible to submit a waiver to the Department.
- ***Question 5: Explain why the facility needs a waiver of this state regulation:***  
\*\*Hospital should list reasons waiver is needed. These may include: inability to recruit or retain adequate staff; administrative issues impacting staffing (eg, market cost of travelers or permanent staff is unattainable, timely credentialing/licensing issues, vaccine requirements resulting in staff loss); lack of inpatient demand, such that baseline should be revised; or others.\*\*
- ***Question 6: Explain how the facility's present situation does not comply with the regulation:***  
\*\*Hospital should describe how staffing issues addressed in #5 are directly impacting ability to maintain 80% of baseline. For example, cannot recruit staff properly trained for a specific unit type and unit was shut down, impacting overall bed count.\*\*
- ***Question 7: Please provide a detailed description of the programs or services offered by the facility affected by the regulation:***

**\*\*Hospital should describe the level of inpatient care provided and the extent to which challenges articulated in Question 5 have altered care availability, if at all.\*\***

- **Question 8: Describe the nature and extent of the application's efforts to comply with the regulation [sic]:**

**\*\*Hospital should describe how it has limited the impact of staffing shortages and/or attempted to alleviate impact on other staff and patient care. For example, limiting impact to one unit, cross-training staff to augment staff availability, partnering with other hospitals or health care providers to meet community/regional demand for medical care.\*\***

- **Question 9: Please explain the facility's proposed alternative(s) to meet the intent of the regulation that is the subject of the waiver application:**

Section 7.2 includes an important safeguard for Colorado's public health in that it ensures hospital inpatient beds are maintained and secured in anticipation of current and future need. While this requirement aligns with [HOSPITAL NAME's] mission and commitment to our community, we are unable to meet these requirements due to the reasons specified in Question 5.

**\*\*Hospital should further specify whether it would like to permanently or temporarily revise its staffed bed baseline, such that the current baseline is no longer attainable, or describe any plans or actions to achieve baseline\*\***

- **Question 10: Explain why granting the waiver would not adversely affect the health, safety or welfare of the facility's residents or patients:**

As specified above, providing care responsive to the needs of our community is paramount to [HOSPITAL NAME]. However, we are constrained in our ability to maintain the state's required baseline staffed bed capacity as specified in Question 5. However, we remain dedicated to the health, safety, and welfare of our patients, and will ensure their care needs can be met by our facility or surrounding facilities and health care providers, as needed on a patient-specific basis.

- **Question 11: If the waiver is being sought for state regulation, a description of how any applicable federal regulation similar to the state regulation for which the waiver is sought (if any) is being met:**

No applicable federal regulation.

- **Question 12: Please describe the facility's staffing consideration [sic]: staff/resident ratio, staffing patterns, scope of staff training, and cost of extra or alternate staffing:**

**\*\*In addition to items listed in Question 12, hospital should describe the national standard used for facility staffing (required by Ch. 4 regulations) and whether that is being reconsidered by the nurse staffing committee\*\***

- Question 13: Describe the number of residents/patients in the facility and the level of care they require, location and number of ambulatory and non-ambulatory residents or patients, and/or decision making capacity:**  
 \*\*If applicable, hospital should provide some context for CDPHE regarding inpatient occupancy relative to the staffed bed baseline - eg, how does the hospital's required baseline reflect community demand for inpatient care (or not)? How do impacts to baseline/overall capacity compare to other community facilities? \*\*
- Question 14: Recommendations of attending physicians and other care-givers:**  
 \*\*Hospital should consider getting a letter of support for the waiver from the hospital's nurse staffing committee. \*\*
- Question 15: Describe the extent and duration of the disruption of normal use of resident or patient areas to bring the facility into compliance with the regulation:**  
 Not Applicable
- Question 16: Life Safety Code factors... [omitted]:**  
 Not Applicable
- Question 17: Financial factors, including but not limited to: Estimated cost of complying with the regulations, including capital expenditures and any other associated costs, such as moving residents; How application of the regulation would create a demonstrated financial hardship on the facility that would jeopardize its ability to deliver necessary health care services to residents; Availability of financing to implement the regulation, including financing costs, repayment requirements, if any, and any financing or operating restriction that may impede delivery of health care to residents; Potential increase in the cost of care to residents or patients as a result of implementation of the regulation:**  
 \*\*If relevant, hospital should consider using this question to provide further context for staffing costs, such as need for travelers; inflation (year over year data is helpful); housing, child care, and other local conditions impacting market rates for staffing. \*\*
- Question 18: Why the waiver of the regulation is necessary for specific facility programs to meet specific resident needs, any why other residents needs are not thereby jeopardized [sic]:**  
 Not Applicable
- [Question 19 and submission info omitted.]**