

California Department of Public Health Center for Health Care Quality

**3.5 SNF Staffing Requirements
January 22, 2018**



Today's Agenda

- **Introductions**
- **Workforce shortage waiver updates**
- **Patient Acuity Waiver Discussion**
- **Emergency regulations timeline**
- **Final Implementation of SB 97**
- **Next steps**



Introductions

- Kristin Vandersluis - Facilitator

Department Representatives

Scott Vivona, Assistant Deputy Director
Center for Health Care Quality

Chelsea Driscoll, Policy and Enforcement
Branch Chief



3.5 Stakeholder Process Overview

- CDPH has hosted a series of stakeholder meetings related to 3.5 staffing requirements implementation

SB 97 Workforce Shortage Waiver Requirements

- The bill requires the Department to develop a waiver of the direct care service hour requirements if there is a shortage of health care professionals and direct caregivers

Workforce Shortage Waiver Stakeholder Comments

- Based on stakeholder input CDPH made several changes to the draft workforce shortage waiver

Workforce Shortage Waiver

- Guidelines for Waiver Application
 - CNA shortage calculation template
 - Salary ranges from EDD website
 - Tightened language on requirements for waiver application

Workforce Shortage Waiver Cont.

- Evaluation of Waiver Requests
 - Excludes facilities with violations that reach a specified level from waiver eligibility
 - Specifies the type of violations considered by the Department if the facility is seeking a renewal of a waiver
 - The waiver also specifies a facility's history of non-compliance with staffing requirements will be considered during the waiver review process

Workforce Shortage Waiver Cont.

- Processing Waiver Requests
 - The Department will send written notice of waiver application to the state and local Ombudsman offices and request additional information

Workforce Shortage Waiver Cont.

- Waiver Approvals
 - Included separate section for waiver approvals for clarity
- Waiver Revocations
 - Included separate section for waiver revocations to specify terms for waiver termination

CNA Shortage Calculation Template

- The Department is developing a template for facilities to submit information establishing a CNA shortage

Patient Acuity Waiver Requirements

- Health and Safety Code Section 1276.65, subdivision (c)(2) requires the Department to develop a waiver to meet individual patient needs while maintaining the 3.5 direct care service hours

Existing Patient Acuity Language

- The existing language for the patient acuity waiver uses the program flex process
- Specifically authorized in Title 22 section 72329.1 and 72213

Patient Acuity Waiver

- What criteria would you like to see included in the patient acuity waiver?
- What standards would facilities need to meet to qualify for the waiver?

Follow-Up Questions

- In facilities with both regular SNF level and sub-acute patients, should an RN overseeing sub-acute patients also oversee regular SNF level patients?
- Should facilities that have both regular SNF level patients and subacute patients have different considerations in determining the patient acuity waiver? If so, what considerations are most important?
- Which direct care staff should be included or counted when determining eligibility for the acuity waiver?

Patient Acuity Waiver Cont.

- How frequently should the Department reassess eligibility for the patient acuity waiver?
- Should there be a limit on the number of waiver renewals?

Follow-Up Questions

- Should subacute facilities have a different approval period for a patient acuity waiver?
- Should there be a limit on the number of patient acuity waivers? Should the consideration be different for a subacute facility?
- What grounds, if any should be used for revoking a patient acuity waiver?

Stakeholder Suggestions Regarding the Patient Acuity Waiver

- Patient assessment
 - Stakeholders (CAHF) previously mentioned that CMS requires facilities to staff based on patient acuity as determined by patient assessments that take into account resident needs. What do you think of the Department requiring patient assessments as part of the acuity waiver application and what other documentation or information should facilities submit?

Stakeholder Suggestions Regarding the Patient Acuity Waiver Cont.

- Use of CMS expected staffing levels
 - Based on previous stakeholder suggestions (CANHR), what do you think of the Department using CMS expected staffing levels to help determine eligibility for the waiver?

Emergency Regulation Timeline

- Regulations will be posted on website at the end of March 2018
- Package will be submitted to OAL in June 2018
- July 1, 2018 is the Effective date of the regulations

Final Implementation of SB 97

- January 2019: Final Regulations adopted
- July 2019: Revised Audit AFL in effect

- ***Next Stakeholder meeting is February 22, 2018***
- ***Please submit comments or questions to the CDPH_CHCQStakeholderForum email address
CHCQStakeholderForum@cdph.ca.gov***