

## Temporary Permission for Program Flexibility for Minimum Staffing Ratios

This form is to be used ONLY for program flexibility requests when hospitals temporarily need to comply with licensing requirements by using alternative concepts, methods, procedures, techniques, equipment, or personnel.

Hospitals are required to submit a program flexibility request to the California Department of Public Health (CDPH), Licensing & Certification (L&C) Program through their local district office (DO) for written approval. This form is a mechanism to expedite the request and approval process in emergency situations.

<https://www.cdph.ca.gov/Programs/CHCQ/LCP/Pages/DistrictOffices.aspx>

Facility Name Buena Vista Care Center			Date of Request June 29, 2020	
License Number 050000549			Facility Phone 805-964-4871	Facility Fax Number 805
Facility Address 160 S. Patterson Ave.				
E-mail Address [REDACTED]			Contact Person Name [REDACTED]	
City Santa Barbara	State CA	Zip Code 93111		

### Approval Request

Complete one form for each request

- Tent use (High patient volume)       Bed use  
 Space conversion (other than tent use)       Over bedding

Start Date: July 23, 2020  
End Date: October 27, 2020

### Program Flex Request

What regulation are you requesting program flexibility for? Title 22 - 72329.2 & HSC 1276.65 (c)(1)(B)(C)

### Justification for the Request

- A disease outbreak (verifiable through sources such as the local emergency medical service agency (LEMSA), local Public Health Officer, CDPH Division of Communicable Disease Control, the Centers for Disease Control and Prevention) is present in the community where the hospital is located or in a contiguous area(s) causing a rapid influx (surge) of patients to the hospital. Examples of this type of surge include: Increased cases of seasonal influenza, onset of a severe acute respiratory syndrome-type or other highly contagious virus requiring acute care, an epidemic/pandemic, a bioterrorism agent, or a declared public health emergency.
- An emergency resulting in the need for increased patient accommodations has occurred in the community where the hospital is located or in a contiguous area(s) causing a rapid influx (surge) of patients to the hospital. Examples of this type of surge include: A natural or human-caused disaster, a crime incident or transportation accident resulting in numerous mass casualties, an emergency causing the evacuation of patients or diversions from another hospital (LEMSA diversion has been implemented).

**Justification for the Request**

Other:

We are experiencing challenges meeting 3.5/2.4 requirements as the result of implementing CDC and CDPH guidance advising work restrictions for symptomatic employees and actual or suspected COVID-19 exposure instances (explained below); and continued school closures.

**Exhausting Available Alternatives**

The hospital must exhaust available alternatives before requesting increased patient accommodations. Check all that apply:

- Rescheduling non-emergent surgeries and diagnostic procedures.
- Transferring patients to other beds or discharge as appropriate.
- Setting clinics for non-emergency cases (if possible).
- Requesting ambulance diversion from LEMSA, if appropriate.
- Other:

Facility Name	License Number	Request Date

**Adequate Staff, Equipment and Space**

The hospital must make arrangements for adequate staffing, equipment and space for increased patient accommodations. Check all that apply:

- A plan is in place for staff if the request is for use of alternate space.
- A plan is in place for equipment if the request is for use of alternate space.
- The proposed space for care of patients provides sufficient square footage to ensure access for safe care.
- Other:

**Additional Information**

Provide a brief description of your conditions and explain the need for program flexibility. Provide a brief description of the alternative concepts, methods, procedures, techniques, equipment or personnel to be used, and the conditions under which this program flexibility will be utilized. Attach additional supporting documentation as needed.

We are experiencing challenges meeting 3.5/2.4 requirements as the result of implementing CDC and CDPH guidance advising work restrictions (quarantine) for all staff presenting with unexplained fever or undiagnosed respiratory symptoms; or, recent medium to high risk exposure to a confirmed case of COVID-19 case (even if asymptomatic). We have additional requirements to conduct comprehensive door screening for all staff and essential visitors, which frequently results in unanticipated employee quarantine at shift start. We have additional staffing burdens required for patient monitoring, including frequent temps & O2 Sat checks and heightened COVID-19 symptom monitoring. New baseline and surveillance testing requirements are resulting in unexpected quarantines and placing additional testing responsibilities on staff. We are working hard to secure contracted agency providers who can meet our staffing needs; however, they are experiencing high industry demands. In addition to these challenges, schools remain closed, creating childcare hardships for many staff members. We have had many staff take leaves of absence over childcare and COVID fear. We've asked staff to engage in double shifts, have recalled days off, and authorized all over-time necessary to meet patient needs; however, staff are feeling fatigue effects. We have even authorized Hazard pay to care for COVID+.

We need relief from these requirements, so we can have the flexibility needed to take care of both our patients and staff accordingly. Due to the closures of our local school districts and recommended work restrictions, we have a critical shortage of qualified direct care staff; and, cannot remedy the situation through staff recall and other staffing solutions. We are asking CDPH to waive 3.5/2.4 staffing requirements for the duration of this event (which reportedly may impact us through October); or, until we can consistently maintain required staffing levels. To meet the current needs of our population: Facility administration will closely monitor staffing levels daily and make necessary decisions and adjustments in accordance with the best interests and needs of our patients; We will continue practices of automatically authorizing over-time, imposing mandatory double-shifts, and implementing day-off recalls as needed; DON and other designated staff will closely monitor resident changes daily to ensure all conditions are properly treated and transmission based precautions are implemented immediately when needed; Department Managers will communicate with residents frequently and bring any grievances or concerns forward to be addressed; We will utilize non-direct care staff to engage in supportive duties, such as answering call lights, passing out water or meal trays, providing 1:1 supervision, engaging in social companionship, and facilitating resident/family communication by alternate means; We will also authorize bed-making activities and meal assistance for low risk depended diners (i.e. without swallowing precautions) for properly training individuals. We will make every effort to maintain sufficient staffing levels for safety and will immediately notify CDPH and request staffing support from our MOHAC if the facility experiences a sudden spike in staff absenteeism or attrition, which creates an urgent staffing shortage that jeopardizes the health and safety of our patients. Please see Attachment A which outlines our current challenges.

\_\_\_\_\_  
 Signature of person requesting program flexibility

\_\_\_\_\_  
 Printed name

NHA Executive Director  
 Title

**Note:** Approval for tent use, space conversion, bed use and over-bedding will be time limited and dependent on the facts presented that substantiate the emergency. Initial approval may be given verbally by the local L&C DO; however, a signed written approval must be distributed (faxed) to the hospital and filed in the hospital's facility folder.

For CDPH Use Only:  
**CDPH Licensing and Certification Approval:**  
 Permission Granted from: 09/24/2020 to 10/22/2020  
 Permission Denied: Briefly describe why request was denied in comments / conditions below:  
 Comments / conditions: The department may revoke the program flexibility if the licensee does not comply with the conditions set forth in the approval or if the department determines the proposed alternative does not adequately meet the intent of the regulations  
R. DA

## ATTACHMENT A: EXISTING FACILITY CHALLENGES

Our facility is experiencing staffing shortages and is having difficulty recruiting replacement workers for the following reasons:

Buena Vista Care Center has had some staffing challenges since the COVID-19 Pandemic. The difficulties have increased severely since the baseline COVID-19 testing started the week of June 11, 2020.

Some additional information first- The facility just had their Annual Staffing audit in June 2020. The 24 random days picked were during Q4 2019 and the facility passed the audit meeting the 3.5/2.4 PPD requirements. But Q1 & Q2 of 2020 have had major challenges with staffing. Q1 when the pandemic started, we had a change in Director of Nursing. The previous Director of Nursing who left, recruited several of the Licensed Nurses and other staff to the facility she went to. Buena Vista has had a very difficult time replacing those Licensed Nurses because LVN's and/or RN's. The facility has been utilizing registry agencies but these registries do not have an abundance of staff to offer to work as several SNF's, home health agencies, acute hospitals, etc. are all contracted with the same registries in the area. We have had a total of 26 Terminations all voluntary-15 RN/LVN's and 11 C.N.A.'s. so far in 2020 and 9 new hires 8 RN/LVN's and 1 C.N.A. The difference is noticeable-15 total nursing staff members. There is a significant increase in staff working extra shifts, overtime and double time. We are lucky to have such dedicated and loyal employees but we also worry there will eventually be burn out.

Our facility works with full-time recruiters for Licensed nurses and C.N.A.'s. We have offered sign on bonuses, education reimbursement, competitive wages and benefits packages and post job vacancies on popular websites like Indeed and Monster. For our current Licensed Nurse staff we did across the board market wage adjustments to keep competitors from recruiting them. There is a decrease in Licensed nurses available to recruit because a lot of the nursing schools have been turned away from the clinical sites during this COVID-19 pandemic. So class completions and graduations are on hold or delayed.

We have had to designate staff to assist with essential COVID-19 management positions and engage in additional activities that are not counted in the Direct Care NHPPD, such as the door screener.

Currently we have Nursing opening posted online and updated weekly to stay at the top of the advertisement lists. Current vacancies include, C.N.A.'s 3-11 shift, Licensed Nurses, PM's Days, Weekends and treatment. We call the registry agencies we have contracts with to get open shifts filled. Some shifts are also filled by the DSD and the ADON when registry cannot come through filling ALL the shifts.

We have experienced a surge of patients requiring isolation due to actual and suspected COVID-19.

We had one resident test positive for COVID-19 and we had to designate one Licensed nurse to care for just him to prevent cross contamination. So in a 24 hour period, it was 2 Licensed nurses just for that one resident as the LN worked 12 hour shifts for the 10 required period of observation.

Last weekend we had a staff member test positive during baseline testing for COVID-19. Not only did we have to replace the shift vacancy but we also had to place the residents he cared for in the previous days before test results were received on Presumptive isolation. The resident total was 46 residents. So we have to have more direct care staff to assist residents because going in and out of rooms takes longer when donning and doffing PPE and obtaining the more frequent vital signs for the identified residents. Also, staff taking care of the residents in isolation, need to be separate staff than are taking care of residents not in isolation.

We do not foresee that the nursing staffing will improve anytime soon as it appears the staffing resources in our community are maxed out to be able to help.

To address C.N.A. needs at Buena Vista, we have started the process to initiate a Nursing Aide Training Program (NATP) and hope to have all the paperwork submitted by August 1, 2020. But that means after NATP approval, recruitment for students, etc. we may have one class with maximum of 15 that would get certifications by end of 2020.

While we continue to try to meet the NHPPD with goals of 3.5/2.4, realistically it is difficult to do so over half of the days these last three months. At least 3.2 NHPPD overall was met all days.

Buena Vista Care Center will meet all the requirements outlined in AFL 20-32.1 for the staffing waiver request:

AFL 20-32.1	Buena Vista Care Center
SNFs shall continue to comply with unusual occurrence reporting requirements specified in Title 22 of the California Code of Regulations section 72541.	The facility has complied and will continue to report any unusual occurrences.
SNFs shall continue to report all changes as required under Title 22 CCR section 72211, to CABLTC@cdph.ca.gov, however the 10-day reporting shall not apply. SNFs shall report all changes as soon as practical within 30 days of the change. When any temporary beds are no longer in use, SNFs shall report the lowering of patient capacity to CDPH.	The facility currently is functioning at the Licensed capacity however, should a change in that be necessary, the facility will report all changes as required under Title 22 CCR section 72211, to CABLTC@cdph.ca.gov, however the 10-day reporting shall not apply. SNFs shall report all changes as soon as practical within 30 days of the change. When any temporary beds are no longer in use, SNFs shall report the lowering of patient capacity to CDPH.
SNFs shall report any substantial staffing or supply shortages that jeopardize resident care or disrupt operations.	The facility currently has substantial staff and is able to meet the care needs of the residents. However, to do this the facility has utilized Registry agencies and lots of staff work overtime and double shifts. Supplies to care for residents have been anticipated and stockpiled to make sure the facility does not run short. We have contingency plans in place, i.e. Utilizing MOUAC, requesting items from our Corporate supplies storage.
SNFs shall continue to provide necessary care in accordance with residents' needs and make all reasonable efforts to act in the best interest of residents.	The facility will continue to provide necessary care in accordance with residents' needs and make all reasonable efforts to act in the best interest of residents.
SNFs shall not discriminate admits or readmits, nor transfer or discharge residents based on their	The facility has activated the COVID Unit to be able to care for COVID positive/asymptomatic

<p>status as a suspected or confirmed COVID-19 case. SNFs shall institute appropriate precautions to prevent the spread of infection to health care personnel and other residents as specified in AFL 20-25.2.</p>	<p>residents. Even those with mild symptoms who can be medically managed by the SNF staff will be cared for in the facility. The facility has not discriminated admits or readmits based on their COVID status as long as they can be medically managed in the SNF setting. The facility has instituted appropriate precautions to prevent the spread of infection to healthcare personnel and other residents as specified in AFL 20-25.2.</p>
<p>SNFs shall follow their disaster response plan.</p>	<p>The facility activated the disaster preparedness plan for a Pandemic back in march 2020. The facility completes the Incident Action Plan (IAP) which is part of tracking the details of what the facility is doing in preparation and response to this State of Emergency.</p>
<p>SNFs shall follow infection control guidelines from the Centers for Medicare and Medicaid Services (CMS) and the CDC related to COVID-19.</p>	<p>The facility follows the Infection Control guidelines from CMS and CDC related to COVID-19. The facility ahs a designated full-time Infection Preventionist Nurse and participates in the weekly CDPH IP calls, County calls and our Company calls to assist with keeping up with the most recent recommendations.</p>
<p>SNFs shall comply with directives from their local public health department, to the extent that there is no conflict with federal or state law or directives or CDPH AFLs.</p>	<p>The facility will comply with directives from the local public health department, to the extent that there is no conflict with federal or state law or directives or CDPH AFLs.</p>