

Guidance for Requesting a Level of Care Waiver (08/31/09)

The Department may grant a waiver to a community residential care facility to provide short-term care in end-of-life situations for those residents who have been certified by a physician as being “terminally ill”, and who require medical care, skilled nursing care, or care beyond assistance with Activities of Daily Living (ADL’s) provided the facility meets specific and additional requirements set forth by the Department as outlined below.

- Resident must be certified by a physician to be terminally ill.
- The facility must be in substantial compliance with all requirements of Regulation 61-84, Standards for Licensing Community Residential Care Facilities.
- Resident must have resided in the facility for at least six (6) months.
- The facility must adhere to all physician orders.
- Facilities shall limit the number of persons exceeding the level of care appropriate for Community Residential Care Facilities to no more than (2) residents at any given time.
- Approval of exception/waiver requests shall be temporary and not exceed 120 days. The facility may request a continuation of the waiver which the Department will review and consider based on the following:
 - The resident’s current condition and needs;
 - The facility meeting the needs of the resident; and,
 - The facility maintaining compliance with the approved exception requirements.

Prior to an additional extension, a physical must be conducted by a physician documenting the resident’s current condition and needs.

- An initial assessment of the needs of the resident must be completed by a Registered Nurse (RN). Subsequent assessments by a RN must be completed at least weekly and more frequently if necessary.
- The resident's condition and treatment must be documented in notes of observation by the licensed nurse on each shift when nursing care is provided.
- The facility shall develop and implement specific policies and procedures related to the care of terminally-ill residents requiring nursing home level of care.
- Resident care plans must specifically address medical care or skilled nursing services needed by the terminally ill resident.
- The facility must employ a full-time (40 hours per week) community residential care administrator licensed by the South Carolina Board of Long Term Health Care Administrators.
- The resident’s service agreement must be amended to include any additional services necessary to provide care consistent with the physician’s orders. The service agreement must be signed by the facility’s administrator and the resident or the resident’s Health Care Power of Attorney and must disclose at a minimum: The number of facility staff (licensed and non-licensed) that will provide care to the terminally-ill resident; the specific services that will be provided; and the additional cost of each additional service provided.

Guidance for Requesting a Level of Care Waiver-continued (08/31/09)

- Nursing care ordered by a physician must be provided by a Home Health Agency Nurse, Hospice Program Nurse, or facility nurse.
- In addition to the minimum staffing ratio required by R.61-84, facilities shall ensure the availability of:
 - A licensed nurse employed/contracted by the facility or a licensed home health agency or hospice program to ensure that all skilled nursing care is consistent with physician orders and the nursing assessment.
 - A Certified/Registered Dietician responsible for providing consultation regarding the resident's physician prescribed special and/or therapeutic diet.
 - A designated staff member responsible to assist the resident /responsible party in addressing social, emotional and related problems.
- The facility's fire plan and emergency evacuation plan must also include how the facility will evacuate those residents who are not capable of self-evacuating the facility in the event of a fire or other emergency.
- Furnishings
 - Hospital-style bed, if ordered by a physician; and,
 - The facility is required to provide a call system with the ability to call staff from the bedside and bathroom.
- In certain circumstances, the Department may grant a waiver to accommodate the special situation and/or needs of a non-terminally ill resident. The Department's decision will consider factors, such as:
 - Placement opportunities
 - Overall condition and needs of the resident
 - Facility resources and services

The Department's determination for granting approval will be based upon: documentation submitted to the Department by the facility regarding the resident's condition, including a signed and dated statement from the resident's physician of the resident's terminal condition; and the submission of a signed agreement between the resident's physician, the facility's representative and the resident or an individual having legal Health Care Power of Attorney.

A facility requesting an exception to level of care standards for a resident in an end-of-life situation must complete a waiver request form and return it to: **SCDHEC, Division of Health Licensing, 2600 Bull Street, Columbia, SC, 29201**. Please complete the form entirely and attach any supporting documentation. If you have any questions regarding the completion of this form, please contact the Division of Health Licensing at (803) 545-4370 or fax (803) 545-4212.

LEVEL OF CARE WAIVER (08/31/09)
Request Form

I, _____ am requesting that _____	
Administrator's Name	Resident's Name
be allowed to remain in _____.	
Facility Name	
made with the acknowledgement that _____ is	
Facility Name	
not licensed to provide the level of care associated with the resident's medical condition.	
_____	_____
Administrator Signature	Date
_____	_____
Resident/Healthcare POA Signature	Date

- Resident must be certified by a physician to be terminally ill.
- The facility must be in substantial compliance with all requirements of Regulation 61-84, Standards for Licensing Community Residential Care Facilities.
- Resident must have resided in the facility for at least six (6) months.
- The facility must adhere to all physician orders.
- Nursing care ordered by a physician must be provided by a Home Health Agency Nurse, Hospice Program Nurse, or facility nurse.
- An initial assessment of the needs of the resident must be completed by a Registered Nurse (RN). Subsequent assessments by a RN must be completed at least weekly and more frequently if necessary.
- The resident's condition and treatment must be documented in notes of observation by the licensed nurse on each shift when nursing care is provided.
- The facility shall develop and implement specific policies and procedures related to the care of terminally-ill residents requiring nursing home level of care.
- Resident care plans must specifically address medical care or skilled nursing services needed by the terminally ill resident.
- The facility must employ a full-time (40 hours per week) community residential care administrator licensed by the South Carolina Board of Long Term Health Care Administrators.
- The resident's service agreement must be amended to include any additional services necessary to provide care consistent with the physician's orders. The service agreement must be signed by the facility's administrator and the resident or the resident's Health Care Power of Attorney and must disclose at a minimum: The number of facility staff (licensed and non-licensed) that will provide care to the terminally-ill resident; the specific services that will be provided; and the additional cost of each additional service provided.
- In addition to the minimum staffing ratio required by R-61-84, facilities shall ensure the availability of:
 - A licensed nurse employed/contracted by the facility or a licensed home health agency or hospice program to ensure that all skilled nursing care is consistent with physician orders and the nursing assessment.
 - A Certified/Registered Dietician responsible for providing consultation regarding the resident's physician's prescribed special and/or therapeutic diet.
 - A designated staff member responsible to assist the resident /responsible party in addressing social, emotional and related problems.

LEVEL OF CARE WAIVER (08/31/09)

Request Form-continued

- The facility's fire plan and emergency evacuation plan must also include how the facility will evacuate those residents who are not capable of self-evacuating the facility in the event of a fire or other emergency.
- The following furnishings must be provided:
 - Hospital-style bed, if ordered by a physician; and,
 - The facility is required to provide a call system with the ability to call staff from the bedside and bathroom.
- In certain circumstances, the Department may grant a waiver to accommodate the special situation and/or needs of a non-terminally ill resident. The Department's decision will consider factors, such as:
 - Placement opportunities
 - Overall condition and needs of the resident
 - Facility resources and services

I, _____, _____,	
Name of Facility Representative	Title
agree to allow _____ to continue to be a resident of	
Resident's Name	
_____ . I acknowledge that the medical	
Facility Name	
condition of _____ requires care and services that exceed	
Resident's Name	
the scope of a facility licensed subject to Regulation 61-84. I agree to provide the	
additional care and services listed above.	
_____	_____
Facility representative/Administrator	Date

I, _____, certify that _____	
Physician's Name	Resident's Name
is terminally ill.	
_____	_____
Physician's Signature	Date

Note: By signing this document parties acknowledge the requirements of the Level of Care Waiver and collective acceptance of responsibility and liability for care of the resident.