19CSR30-82.010(4)

(4) The department may grant exceptions for specified periods of time to any rule imposed by the department if the department has determined that the exception to the rule would not potentially jeopardize the health, safety or welfare of any residents of a long-term care facility.

(A) The owner or operator of the facility shall make requests for exceptions in writing to the director of the department. These requests shall contain—
1. A copy of the latest Statement of Deficiencies which shows a violation of the rule being cited, if the exception request is being made as a result of a deficiency issued during an inspection of the facility;
2. The section number and text of the rule being cited;
3. If applicable, specific reasons why compliance with the rule would impose an undue hardship on the operator, including an estimate of any additional cost that might be involved;
4. An explanation of any extenuating factors that may be relevant; and
5. A complete description of the individual characteristics of the facility or residents, or of any other factors that would safeguard the health, safety and welfare of the residents if the exception were granted.

(B) With the advice of the division’s licensure inspection field staff, the department will consider any requests that contain all the information required in subsection (4)(A). The department shall notify the operator, in writing, of the decision on any request for an exception, stating the reason(s) for acceptance or denial, and, if granted, the length of time the exception is to be in effect and any additional corrective factors upon which acceptance may be conditioned.

(C) The department shall only grant exceptions to licensure requirements set out in rules imposed by the department and cannot grant exceptions to requirements established by state statute or federal regulations. Operators wishing to obtain waivers of regulations under Title XVIII or Title XIX of the Social Security Act shall follow procedures established by the Centers for Medicare and Medicaid (CMS).

Chapter 85—Intermediate Care and Skilled Nursing Facility

(79) All facilities with plans approved before June 10, 1981 and December 31, 1998, shall comply with the 1985 edition of the Life Safety Code, and all new facilities with plans approved on or after January 1, 1999, shall comply with the 1997 edition of the Life Safety Code (National Fire Protection Association NFPA 101), which are incorporated by reference in this rule. No provision of the 1997 code will be enforced if it is more restrictive than the code of original plan approval. Facilities may only use the fire safety evaluation system found in the 1995 NFPA 101A, incorporated by reference in this rule, if necessary to justify variance from the text of the Life Safety Code and not as a guide for the total design of a new facility. II