The Department will consider and approve waiver requests for admission of residents with mental health problems to non CSF facilities when special circumstances arise. Special circumstances which may require a waiver request might include: a married couple which desires not to be separated and a resident who would be geographically separated from his/her family, or community supports (eg., church, medical care).

Responsible Person shall mean an individual 21 years of age or older, who has received a high school diploma, is of good moral character, with ability to make mature and accurate judgments and with no mental or physical disabilities or personality disturbances that could interfere with adequate performance of duties and responsibilities. The responsible person shall also have the ability to communicate orally and in writing in English and the primary language used by patients and residents of a facility. Exception: Persons employed in this capacity on July 1, 1987 shall have at least four years within which to earn a Massachusetts High School Equivalency Certificate or may qualify for a waiver of the High School requirement under 105 CMR 153.030(B) if they can demonstrate at least five years experience as a responsible person.

(3) Charge Nurse: The charge nurse shall be a registered nurse or a licensed practical nurse; provided that, in a Level I or II unit, a practical nurse licensed by waiver may serve in such capacity only if she/he has received a passing grade either on the Massachusetts written state licensure examination given in the years 1958, 1959, 1960 by the Board of Registration in Nursing or on the federal Public Health Service Proficiency Examination for Practical Nurses Licensed by Waiver given periodically by the Department in accordance with federal regulations. The charge nurse shall be responsible for the performance of total nursing care of the patients in his/her unit during his/her tour of duty with the assistance of ancillary nursing personnel.

(a) When a resident who has been determined, following his/her consent and evaluation, to be a Community Support Resident, is admitted to a Community Support Facility, or to a Resident Care Facility (by waiver) a written agreement must be signed between certain referring public or private agencies or institutions and the accepting facility.

(C) Supervision and administration of medication shall be as follows:

(c) The administration of all other controlled substances must be approved by the Department through a written waiver request pursuant to 105 CMR 153.030(B).

(C) Safety and Personal Protection.
(10) There shall be at least one functioning telephone on each floor or in each unit where patients, residents or personnel reside. These telephones shall be free of locks and shall be available for use in emergency for both incoming and outgoing calls. In addition, all facilities shall provide at least one telephone for patient or resident use, which may be coin operated, that is located so as to assure privacy during use; is a single line without an extension; is placed and positioned at a height so that the equipment is fully accessible to individuals in wheelchairs; is equipped with sound amplification for those with hearing disabilities and so identified with instructions for use. For existing facilities, the Division may grant a waiver of 105 CMR 150.015(C)(10) if it is demonstrated that enforcement would result in unreasonable hardship upon the facility. All facilities shall comply with the provisions of 105 CMR 150.015(C)(10) by December 23, 1983 except that it the facility demonstrates that major structural changes are necessary, compliance shall be achieved by June 23, 1984.

153.007: Other Licensing Requirements
(E) No facility shall admit any additional Community Support Residents after July 1, 1987 with the exception of those facilities receiving licensure as a CSF under 105 CMR 153.007(C) except in the following circumstances:
(1) facilities granted a waiver pursuant to 105 CMR 153.031(B); and
(2) facilities seeking to readmit a resident who may need CSF services for stabilization following a period of hospitalization for an acute episode of mental illness.

153.031: Special Projects and Waivers
(A) Proposals for special projects for innovative delivery of services related to long-term care facilities will be considered. However, no such plan shall be implemented without prior written approval of the Department. Such plans shall be implemented only on an experimental basis and subject to renewal of approval by the Department at such time periods as the Department shall fix. (B) The Commissioner or his designee may waive the applicability to a particular facility of one or more of the requirements imposed by 105 CMR 153.000, 105 CMR 150.000: Licensing of Long-Term Care Facilities and 105 CMR 151.000: General Standards of Construction: Long-Term Care Facilities upon finding that:
(1) the facility's non-compliance does not affect the health or safety of its residents and does not limit the facility's capacity to give adequate care; and
(2) the facility has instituted compensating features or has undertaken a special project under 105 CMR 153.030(A) acceptable to the Department; and
(3) the facility provides to the Commissioner or his designee written documentation supporting its request for a waiver.

156.130: Nurses’ Aides Who May Substitute Equivalency Evaluation for Training Course
The following individuals are eligible for equivalency evaluation in lieu of completion of a training course to satisfy the requirements of 105 CMR 156.000. If such individuals choose not to take the equivalency evaluation in lieu of the training course, they shall be considered new employees subject to the requirements set forth in 105 CMR 156.120.

(A) Individuals who have completed training equivalent to the minimum standard curriculum.
(1) Such individuals shall have completed one of the following within the two years preceding the commencement of employment to be eligible for the equivalency evaluation:
(a) Documented successful completion of long-term care nurses’ aides training programs regulated by other states;
(b) Documented successful completion of a clinical course in an approved school of nursing, in accordance with 244 CMR 6.00, which included hands-on care skills as specified in the minimum standard curriculum.

(2) Such nurses’ aides shall successfully complete an equivalency evaluation in accordance with 105 CMR 156.400 as follows:
(a) Nurses’ aides, described in 105 CMR 156.130(A)(1), whose employment in a Massachusetts long-term care facility commenced prior to the date of promulgation of these regulations shall successfully complete an equivalency evaluation on or before June 30, 1989;
(b) Nurses’ aides, described in 105 CMR 156.130(A)(1), who are hired on or after the date of promulgation and prior to January 1, 1989 shall successfully complete equivalency evaluation on or before March 31, 1989;
(c) Nurses’ aides, described in 105 CMR 156.130(A)(1), hired on or after January 1, 1989 shall successfully complete evaluation within 90 days subsequent to the commencement of employment.

(B) Nurses’ aides whose employment by a licensed long-term care facility or temporary help agency commenced prior to the promulgation of 105 CMR 156.000.
(1) Such nurses’ aides shall meet the following eligibility requirements:
(a) Have completed a nurses’ aide training course within the preceding two years; or
(b) Have been employed as a nurses’ aide by a long-term care facility or by a temporary help agency and assigned to long-term care facilities one year out of the past three years on a full-time basis or at least 100 days in the year prior to promulgation with no interruption in employment greater than ten weeks.

(2) Such nurses’ aides shall successfully complete an equivalency evaluation in accordance with 105 CMR 156.400 on or before June 30, 1989.

(C) The Commissioner or his or her designee may waive the qualifications for individuals permitted to take the equivalency evaluation in lieu of the training course imposed by 105 CMR 156.130(A) and (B) upon finding that:
(1) The individual has had the following experience:
(a) Employment as a nurses’ aide for one year out of the past three years on a full-time basis or at least 100 in the year prior to proposed evaluation with no interruption in employment greater than ten weeks; and
(b) Provision of direct care services to the elderly including but not limited to bathing, grooming, and feeding during the employment period specified above in 105 CMR 156.130(C)(1)(a); and
(c) Provision of such direct care services in an institutional setting including a chronic or acute care hospital.

(2) The proposed waiver does not jeopardize the health or safety of the facility’s residents and does not limit the facility’s capacity to give adequate care.
(3) The facility provides to the Commissioner or his or her designee written documentation supporting its request for a waiver.
(4) Such nurses’ aides shall successfully complete an equivalency evaluation in accordance with 105 CMR 156.400 as follows:
(a) Nurses’ aides, for whom a waiver has been obtained pursuant to 105 CMR 156.130(C), whose employment in a long-term care facility commenced prior to January 1, 1989 shall successfully complete equivalency evaluation on or before March 31, 1989;
(b) Nurses' aides, for whom a waiver has been obtained pursuant to 105 CMR 156.130(C) and who are hired on or after January 1, 1989 shall successfully complete evaluation within 90 days subsequent to the commencement of employment.

(D) A facility shall not continue to employ an individual as a nurses' aide who does not successfully complete an evaluation as pursuant to the provisions of 105 CMR 156.130.

156.210: Qualifications of the Instructor

(3) The Commissioner or his or her designee may waive the qualifications of the instructor imposed by 105 CMR 156.210(A)(1) and (2) upon finding that:

(a) The proposed instructor has obtained sufficient experience in the care of long-term care residents and teaching adults how to provide such health care to ensure that he or she may train nurses' aides to perform the objectives outlined in the minimum standard curriculum described in 105 CMR 156.320, and

(b) The training provider provides to the Commissioner or his or her designee written documentation supporting its request for a waiver.

(B) Other health care professionals such as dieticians, social workers, physical therapists, occupational therapists, and others may teach lessons or modules of a nurses' aides training course.