Construction, Alterations or Renovations.
(i) The department’s health facilities administration shall be the authority having jurisdiction for the application of the AIA “Guidelines for Design and Construction of Health Care Facilities,” Nursing Facilities chapter, 2006 edition, and shall negotiate compliance and grant waivers in accordance with He-P 803.10 as appropriate.
(j) Waivers granted by the department for construction or renovation purposes shall not require annual renewal.

Waivers.
(a) Applicants or licensees seeking waivers of specific rules in He-P 803 shall submit a written request for a waiver to the commissioner that includes:
(1) The specific reference to the rule for which a waiver is being sought;
(2) A full explanation of why a waiver is necessary;
(3) A full explanation of alternatives proposed by the applicant or licensee, which shall be equally as protective of public health and residents as the rule from which a waiver is sought; and
(4) The period of time for which the waiver is sought.
(b) Waivers shall not exceed 12 months, or the current license expiration date, except as allowed by He-P 803.18(f) and He-P 803.07(j).
(c) A request for waiver shall be granted if the commissioner determines that the alternative proposed by the applicant or licensee:
(1) Meets the objective or intent of the rule;
(2) Does not have the potential to negatively impact the health or safety of the residents; and
(3) Does not negatively affect the quality of resident services.
(d) The licensee’s subsequent compliance with the alternatives approved in the waiver shall be considered equivalent to complying with the rule from which waiver was sought.
(e) Waivers shall not be transferable.
(f) When a licensee wishes to renew the waiver beyond the approved period of time, the licensee shall apply for a new waiver by submitting the information required by (a) above:
(1) When the licensee submits its application for license renewal pursuant to He-P 803.06(c); or
(2) At least 15 days prior to the expiration of the waiver if the waiver expires on a date other than the expiration date of the licensing certificate.
(g) The request to renew a waiver shall be subject to (b) through (f) above.

Personnel.
(d) Unless a waiver is granted in accordance with He-P 803.10 and (e) below, the licensee shall not make a final offer of employment for any position if the individual:
(1) Has been convicted of any felony in this or any other state;
(2) Has been convicted for sexual assault, other violent crime, assault, fraud, abuse, neglect or exploitation;
(3) Has had a finding by the department or any administrative agency in this or any other state for assault, fraud, abuse, neglect or exploitation or any person; or
(4) Otherwise poses a threat to the health, safety or well-being of residents.
(e) The department shall grant a waiver of (d) above if, after reviewing the underlying circumstances, it determines that the person does not pose a threat to the health, safety or well-being of residents.
(f) The waiver in (e) above shall be permanent unless additional convictions or findings under (d) above occur.
(g) The department shall review the information in (d) above and notify the licensee that the individual can no longer be employed if, after investigation, it determines that the individual poses a threat to the health, safety or well-being of a resident.
(m) An individual need not re-disclose any of the matters in (l)(8) and (l)(9) above if the documentation is available and the department has previously reviewed the material and granted a waiver so that the individual can continue employment.