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### Memorandum

**TO:** Nursing Home Licensees

**FROM:** Elizabeth Daake Kelley, MPH, MBA, Director  
Bureau of Health Care Safety and Quality

**SUBJECT:** Good Faith Efforts to meet Deadline for Compliance with Nursing Home Resident Bedroom 2-Bed Maximum Requirement

**DATE:** October 29, 2021

In April 2021, the Department of Public Health (DPH) promulgated revisions to the long-term care facility regulation, 105 CMR 150.000: *Standards for Long-Term Care Facilities*, including a requirement at 105 CMR 150.017(3)(b)(1) and 105 CMR 150.320(B)(1) that by April 30, 2022, no nursing home resident bedroom contain more than two beds (the “2-bed maximum requirement”). Recognizing it may not be possible for some nursing home licensees to come into full compliance with the 2-bed maximum requirement by April 30, 2022, DPH included a provision in the regulation allowing facilities unable to fully comply to demonstrate that the licensee has made good faith efforts to try to comply with the regulation by the deadline.

As required by 105 CMR 150.000, all nursing homes must comply with the 2-bed maximum requirement, on or before April 30, 2022. If, despite a licensee’s good faith efforts to comply with the 2-bed requirement and through no fault on the part of the licensee, the licensee cannot fully comply with the 2-bed requirement by April 30, 2022, the licensee can submit an attestation provided by the Department attesting to its good faith efforts towards compliance and expected date to come into compliance.

The purpose of this guidance is to provide nursing home licensees examples of efforts the licensee could undertake to demonstrate the licensee’s good faith efforts to come into compliance with the 2-bed maximum requirement on or before April 30, 2022. Examples of good faith efforts to comply include, but are not limited to:

- If applicable, submission of an application with the Determination of Need program by March 31, 2022 that is deemed complete by the Determination of Need program and assigned a filing date by April 30, 2022, or the issuance of a Determination of Need;
- Completion of the applicable Plan Review application(s), submission of all related forms and documentation by January 17, 2022, including architectural plans that meet the Plan Review requirements;
- Written agreements with contractors who will oversee the construction project and implementation of the building plans; or
- Applications submitted and all required permits related to the construction plans (including building, electrical, plumbing, mechanical, and use permits) issued by the applicable permitting authorities.

At this time, all nursing homes should be working towards meeting the April 30, 2022 deadline for compliance with the 2 bed maximum requirement. Nursing homes should not at this time submit any attestation to document its good faith efforts to comply with the April 30, 2022 deadline; such attestations will not be reviewed or processed by DPH. DPH will provide an attestation form in December 2021 that nursing homes can submit to DPH beginning January 2022.