



## Ohio Administrative Code Rule 3701-19-52 Variances; waivers.

Effective: December 26, 2013

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(A) The director may grant a variance or waiver from any requirement established in rules 3701-19-30 to 3701-19-52 of the Administrative Code, unless the requirement is mandated by statute.

(B) A pediatric respite care program seeking a variance or waiver must submit a written request to the director. Such written request must include the following information:

(1) The rule requirement for which the variance or waiver is requested, with a reference to the relevant Administrative Code provision;

(2) The specific nature of the request, and the rationale for the request;

(3) The time period for which the variance or waiver is requested;

(4) If the request is for a variance, a statement of how the pediatric respite care program will meet the intent of the requirement in an alternative manner; and

(5) If the request is for a waiver, a statement regarding why application of the requirement will cause undue hardship to the pediatric respite care program and why granting the waiver will not jeopardize the health and safety of any patient.

(C) The decision regarding a variance or waiver is a discretionary act by the director and an informal procedure not subject to Chapter 119. of the Revised Code. Upon written request by a pediatric respite care program, the director may grant:

(1) A variance if the director determines that the requirement has been met in an alternative manner;  
or

(2) A waiver if the director determines that the strict application of the license requirement would



cause an undue hardship to the pediatric respite care program and that granting the waiver would not jeopardize the health and safety of any patient.

(D) The director may stipulate a time period for which a variance or a waiver is to be effective and may establish conditions that the pediatric respite care program must meet for the variance or waiver to be operative. Such time period may be different than the time period sought by the pediatric respite care program in the written variance or waiver request.

(E) The director may establish conditions that the pediatric respite care program must meet for the variance or waiver to be operative. The director may, in his discretion, rescind the waiver or variance at any time upon determining that the pediatric respite care program is not meeting such conditions.

(F) The granting of a variance or waiver by the director shall not be construed as constituting precedence for the granting of any other variance or waiver. All variance and waiver requests shall be considered on a case-by-case basis.

(G) The provider whose request for a waiver or variance under this rule is denied may request reconsideration of the decision by the director. A request for reconsideration must:

(1) Be received in writing by the director within thirty days of receipt of the directors denial of a waiver or variance request;

(2) Present significant, relevant information not previously submitted to the director by the provider because it was not available to the provider at the time the waiver or variance request was filed; or

(3) Demonstrate that there have been significant changes in factors or circumstances relied upon by the director in reaching the initial decision.

(H) A decision on an appropriately filed request for reconsideration shall be issued within forty-five days of the directors receipt of the request for reconsideration and all information determined necessary by the director to make a decision.

(I) The reconsideration process is an informal procedure not subject to Chapter 119. of the Revised



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Code. The directors decision on reconsideration is final.