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Chapter 411@ DEPARTMENT OF HUMAN SERVICES, AGING AND PEOPLE WITH DISABILITIES AND DEVELOPMENTAL DISABILITIES

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Division 85@ NURSING FACILITIES/LICENSING - GENERALLY

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Section 411-085-0013@ New Applicant Qualifications

411-085-0013 New Applicant Qualifications

For the purpose of this rule, "applicant" means each person, as defined in ORS 442.015, who holds 10 percent or greater incident of ownership in the facility. Applicants for licensure (excluding license renewal, but including all changes of ownership) must meet the following criteria:

(1)

CRIMINAL HISTORY. Each applicant must complete a Criminal History Clearance conducted by the Department in accordance with OAR chapter 407, division 007. The Department conducts the fitness determination. If determined "unfit," applicants may appeal as described in OAR 407-007-0330.

(2)

PERFORMANCE HISTORY. Each applicant must: (a) Be free of incident of ownership history in any facility in Oregon that provides or provided (at the time of ownership) care to children, elderly, ill or disabled persons and was involuntarily terminated from licensure or certification, or voluntarily terminated during any state or federal termination process, during the past five years. (b) Be free of incident of ownership history in any nursing facility in any state that was involuntarily terminated from licensure or certification, or voluntarily terminated during any state or federal termination process, during the past five years. (c) Be free of history of termination of licensure as a nursing facility administrator or health care provider during the past five years. (d) Failure to demonstrate

required performance history may result in the Department's denial of a license.

(a)

Be free of incident of ownership history in any facility in Oregon that provides or provided (at the time of ownership) care to children, elderly, ill or disabled persons and was involuntarily terminated from licensure or certification, or voluntarily terminated during any state or federal termination process, during the past five years.

(b)

Be free of incident of ownership history in any nursing facility in any state that was involuntarily terminated from licensure or certification, or voluntarily terminated during any state or federal termination process, during the past five years.

(c)

Be free of history of termination of licensure as a nursing facility administrator or health care provider during the past five years.

(d)

Failure to demonstrate required performance history may result in the Department's denial of a license.

(3)

FINANCIAL HISTORY. Each applicant must: (a) Be free of incident of ownership history in any facility or business that failed to reimburse any state for Medicaid overpayments or civil penalties during the past five years. (b) Be free of incident of ownership history in any facility or business that failed to compensate employees or pay worker's compensation, food supplies, or other costs necessary for facility operation, during the past five years. (c) Have a record of good credit as evidenced by a Department credit check. (d) Submit proof of fiscal responsibility, including an auditor's certified financial statement and other verifiable documentary evidence of fiscal solvency, documenting that the prospective

licensee has sufficient resources to operate the facility for 60 days. Proof of fiscal responsibility must include liquid assets sufficient to operate the facility for 45 days. Anticipated Medicaid income is not considered to be "liquid assets," but may be considered to be "financial resources." Liquid assets may be demonstrated by: (A) An unencumbered line of credit; (B) A joint escrow account with the Department; (C) A performance bond; or (D) Any other method satisfactory to the Department. (e) Provide a pro forma (revenues, expenditures, and resident days) by month for the first 12 months of operation of the facility and demonstrate the ability to cover any cash flow problems identified by the pro forma.

(a)

Be free of incident of ownership history in any facility or business that failed to reimburse any state for Medicaid overpayments or civil penalties during the past five years.

(b)

Be free of incident of ownership history in any facility or business that failed to compensate employees or pay worker's compensation, food supplies, or other costs necessary for facility operation, during the past five years.

(c)

Have a record of good credit as evidenced by a Department credit check.

(d)

Submit proof of fiscal responsibility, including an auditor's certified financial statement and other verifiable documentary evidence of fiscal solvency, documenting that the prospective licensee has sufficient resources to operate the facility for 60 days. Proof of fiscal responsibility must include liquid assets sufficient to operate the facility for 45 days. Anticipated Medicaid income is not considered to be "liquid assets," but may be considered to be "financial resources." Liquid assets may be demonstrated by: (A) An

unencumbered line of credit; (B) A joint escrow account with the Department; (C) A performance bond; or (D) Any other method satisfactory to the Department.

(A)

An unencumbered line of credit;

(B)

A joint escrow account with the Department;

(C)

A performance bond; or

(D)

Any other method satisfactory to the Department.

(e)

Provide a pro forma (revenues, expenditures, and resident days) by month for the first 12 months of operation of the facility and demonstrate the ability to cover any cash flow problems identified by the pro forma.

(4)

EXPERIENCE. If an applicant does not have experience in the provision of nursing facility care, the applicant must employ the services of a consultant with experience in the provision of nursing facility care for a period of at least six months. The consultant and the terms and length of employment are subject to the approval of the Department. Costs incurred for such consulting services are not an allowable cost for Medicaid reimbursement.

(5)

DEMONSTRATION OF RIGHT TO PROPERTY AND BUSINESS. The applicant must demonstrate that they have the legal right to possess the nursing facility property and operate the nursing facility business. Examples include, but are not limited to:

(a) If purchasing the property, the applicant must include documentation

demonstrating clear title and current right to possess the property; and (b) If leasing the facility property, or planning to operate it under a management agreement, the applicant must provide all legal documents needed to demonstrate the right to possess the property and operate the business.

(a)

If purchasing the property, the applicant must include documentation demonstrating clear title and current right to possess the property; and

(b)

If leasing the facility property, or planning to operate it under a management agreement, the applicant must provide all legal documents needed to demonstrate the right to possess the property and operate the business.