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Title 28@ HEALTH AND SAFETY

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Part IV@ Health Facilities

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Subpart C@ Long-Term Care Facilities

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Chapter 201@ APPLICABILITY, DEFINITIONS, OWNERSHIP AND GENERAL OPERATION OF LONG-TERM CARE NURSING FACILITIES

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Section 201.12@ Application for license of a new facility or change in ownership

201.12 Application for license of a new facility or change in ownership

(a)

[Reserved].

(a.1)

A person may not operate or assume ownership of a facility without first obtaining a license from the Department.

(a.2)

A prospective licensee of a facility shall obtain an application form from the Division of Nursing Care Facilities, Department of Health.

(b)

In addition to the completed application and fee required under section 807 of the act (35 P.S. § 448.807), a prospective licensee of a facility shall submit the following: (1) The names, addresses, e-mail addresses and phone numbers of any person who meets any of the following: (i) Has or will have a direct or indirect ownership interest of 5% or more in the facility. (ii) Holds or will hold the license or ownership interest in the land on which the facility is located or the building in which the facility is located. (iii) Owns or will own a whole or part interest in any mortgage, deed, trust, note or other long-term liability secured in whole or in part by the equipment used in the facility, the land on which the facility is located or the building in which the facility is located. (2) If a person identified in paragraph

(1) is a nonprofit corporation, a complete list of the names, addresses, e-mail addresses and phone numbers of the officers and directors of the corporation and an exact copy of its charter and articles of incorporation which are on file with the Department of State as well as amendments or changes. (3) If a person identified in paragraph (1) is a partnership, the names, addresses, e-mail addresses and phone numbers of partners. (4) The name, address, e-mail address, phone number and license number of the administrator. (5) The names, addresses, e-mail addresses and phone numbers of any persons who have or will have an interest in the management of the facility. (6) The names, addresses, e-mail addresses and phone numbers of the facility's officers and members of the board of directors. (7) The names, addresses, e-mail addresses and phone numbers of the following: (i) A parent company. (ii) A shareholder. (iii) A related party of the persons identified in paragraphs (1) through (6). (8) An annual financial report which shall include the following: (i) Audited financial statements prepared in accordance with generally accepted accounting principles (GAAP). If GAAP requires consolidated financial statements, then consolidated statements shall be provided. (ii) A visual representation of the current ownership structure, which must include parent companies, shareholders and any related parties of the persons identified in paragraphs (1) through (6). (iii) A supplemental schedule of annual gross revenues, prepared in accordance with GAAP. The supplemental schedule shall be broken out by payor type. (9) A list of every licensed long-term care nursing facility in any state, the District of Columbia or territory in which the prospective licensee has or has had a direct or indirect interest of 5% or more in the ownership, management or real property. (10) The prospective licensee's licensing and regulatory history in all jurisdictions where the prospective licensee has or has had a direct or indirect ownership interest of 5% or more in a facility. (11) A detailed summary of

adjudicated or settled civil actions or criminal actions filed against the prospective licensee. (12) A list of any persons, identified in paragraph (1), who have experienced financial distress that resulted in a bankruptcy, receivership, assignment, debt consolidation or restructuring, mortgage foreclosure, corporate integrity agreement, or sale or closure of a long-term care nursing facility, the land it sits on or the building in which it is located. (13) Identification of whether an immediate family member relationship exists between a prospective licensee, a person under paragraph (1) and a person under paragraph (7). (14) Additional information the Department may require.

(1)

The names, addresses, e-mail addresses and phone numbers of any person who meets any of the following: (i) Has or will have a direct or indirect ownership interest of 5% or more in the facility. (ii) Holds or will hold the license or ownership interest in the land on which the facility is located or the building in which the facility is located. (iii) Owns or will own a whole or part interest in any mortgage, deed, trust, note or other long-term liability secured in whole or in part by the equipment used in the facility, the land on which the facility is located or the building in which the facility is located.

(i)

Has or will have a direct or indirect ownership interest of 5% or more in the facility.

(ii)

Holds or will hold the license or ownership interest in the land on which the facility is located or the building in which the facility is located.

(iii)

Owns or will own a whole or part interest in any mortgage, deed, trust, note or other long-term liability secured in whole or in part by the equipment used in the facility, the land on which the facility is located or the building in which the facility is located.

(2)

If a person identified in paragraph (1) is a nonprofit corporation, a complete list of the names, addresses, e-mail addresses and phone numbers of the officers and directors of the corporation and an exact copy of its charter and articles of incorporation which are on file with the Department of State as well as amendments or changes.

(3)

If a person identified in paragraph (1) is a partnership, the names, addresses, e-mail addresses and phone numbers of partners.

(4)

The name, address, e-mail address, phone number and license number of the administrator.

(5)

The names, addresses, e-mail addresses and phone numbers of any persons who have or will have an interest in the management of the facility.

(6)

The names, addresses, e-mail addresses and phone numbers of the facility's officers and members of the board of directors.

(7)

The names, addresses, e-mail addresses and phone numbers of the following: (i) A parent company. (ii) A shareholder. (iii) A related party of the persons identified in paragraphs (1) through (6).

(i)

A parent company.

(ii)

A shareholder.

(iii)

A related party of the persons identified in paragraphs (1) through (6).

(8)

An annual financial report which shall include the following: (i) Audited financial statements prepared in accordance with generally accepted accounting principles (GAAP). If GAAP requires consolidated financial statements, then consolidated statements shall be provided. (ii) A visual representation of the current ownership structure, which must include parent companies, shareholders and any related parties of the persons identified in paragraphs (1) through (6). (iii) A supplemental schedule of annual gross revenues, prepared in accordance with GAAP. The supplemental schedule shall be broken out by payor type.

(i)

Audited financial statements prepared in accordance with generally accepted accounting principles (GAAP). If GAAP requires consolidated financial statements, then consolidated statements shall be provided.

(ii)

A visual representation of the current ownership structure, which must include parent companies, shareholders and any related parties of the persons identified in paragraphs (1) through (6).

(iii)

A supplemental schedule of annual gross revenues, prepared in accordance with GAAP. The supplemental schedule shall be broken out by payor type.

(9)

A list of every licensed long-term care nursing facility in any state, the District of Columbia or territory in which the prospective licensee has or has had a direct or indirect interest of 5% or more in the ownership, management or real property.

(10)

The prospective licensee's licensing and regulatory history in all jurisdictions where the prospective licensee has or has had a direct or indirect ownership interest of 5% or more in a facility.

(11)

A detailed summary of adjudicated or settled civil actions or criminal actions filed against the prospective licensee.

(12)

A list of any persons, identified in paragraph (1), who have experienced financial distress that resulted in a bankruptcy, receivership, assignment, debt consolidation or restructuring, mortgage foreclosure, corporate integrity agreement, or sale or closure of a long-term care nursing facility, the land it sits on or the building in which it is located.

(13)

Identification of whether an immediate family member relationship exists between a prospective licensee, a person under paragraph (1) and a person under paragraph (7).

(14)

Additional information the Department may require.

(c)

For the purposes of subsection (B), a "related party" is a person that provides a service, facility or supply to a long-term care nursing facility or that is under common ownership or control, as defined in 42 CFR 413.17(b) (relating to cost to related organizations). The term includes the following: (1) A home office. (2) A management organization. (3) An owner of real estate. (4) An entity that provides staffing, therapy, pharmaceutical, marketing, administrative management, consulting, insurance or similar services. (5) A provider of supplies and equipment. (6) A financial advisor or consultant. (7) A banking or financial entity. (8) A parent company, holding company or sister organization.

(1)

A home office.

(2)

A management organization.

(3)

An owner of real estate.

(4)

An entity that provides staffing, therapy, pharmaceutical, marketing, administrative management, consulting, insurance or similar services.

(5)

A provider of supplies and equipment.

(6)

A financial advisor or consultant.

(7)

A banking or financial entity.

(8)

A parent company, holding company or sister organization.

(d)

For the purposes of subsection (b), an "immediate family member" includes a spouse, biological parent, biological child, sibling, adopted child, adoptive parent, stepparent, stepchild, stepsibling, father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law, daughter-in-law, grandparent or grandchild.

(e)

In addition to the information required under subsection (b), a prospective licensee of a facility shall provide all of the following: (1) A proposed staffing and hiring plan, which shall include the management and oversight staff, the structure of the

facility's governing body and its participants. (2) A proposed training plan for staff. (3) A proposed emergency preparedness plan that meets the requirements of 42 CFR 483.73(a) (relating to emergency preparedness). (4) Proposed standard admissions agreements. (5) A detailed budget for 3 years of operations, prepared in accordance with GAAP, and evidence of access to sufficient capital needed to operate the facility in accordance with the budget and the facility assessment conducted under 42 CFR 483.70(e) (relating to administration).

(1)

A proposed staffing and hiring plan, which shall include the management and oversight staff, the structure of the facility's governing body and its participants.

(2)

A proposed training plan for staff.

(3)

A proposed emergency preparedness plan that meets the requirements of 42 CFR 483.73(a) (relating to emergency preparedness).

(4)

Proposed standard admissions agreements.

(5)

A detailed budget for 3 years of operations, prepared in accordance with GAAP, and evidence of access to sufficient capital needed to operate the facility in accordance with the budget and the facility assessment conducted under 42 CFR 483.70(e) (relating to administration).

(f)

A prospective licensee who fails, under this section, to demonstrate capacity to operate a facility, will be given 30 days from the date of the denial of an application to cure the application. A prospective licensee will be permitted one

opportunity, under this subsection, in which to cure the application.