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Chapter 61@ DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

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Subchapter 61-17@ STANDARDS FOR LICENSING NURSING HOMES

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Sec2 61-17.200@ LICENSE REQUIREMENTS AND FEES

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Section 61-17.200.201@ License Requirements

61-17.200.201 License Requirements

A.

License. No person, private or public organization, political subdivision, or governmental agency shall establish, operate, maintain, or represent itself (advertise or market) as a nursing home in South Carolina without first obtaining a license from the Department. (I) 1. When it has been determined by the Department that nursing care is being provided at a location to accommodate two (2) or more unrelated persons over a period exceeding twenty-four (24) hours, and the owner has not been issued a license from the Department to provide such care, treatment, and/or services, the owner shall cease operation immediately and assure the health and safety of the residents. (I) 2. A facility shall provide only the care, treatment, and/or services of which it is capable and equipped to provide, and has been authorized by the Department to provide. (I) 3. Current or previous violations of the South Carolina Code of Laws and/or Department regulations may jeopardize the issuance of a license for the facility or the licensing of any other facility or activity or addition to an existing facility that is owned or operated by the licensee. (I) 4. No license may be issued, reissued, or renewed until all monetary penalties finally assessed against a facility have been paid and/or other enforcement actions resolved.

1.

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a location to accommodate two (2) or more unrelated persons over a period exceeding twenty-four (24) hours, and the owner has not been issued a license from the Department to provide such care, treatment, and/or services, the owner shall cease operation immediately and assure the health and safety of the residents. (I)

2.

A facility shall provide only the care, treatment, and/or services of which it is capable and equipped to provide, and has been authorized by the Department to provide. (I)

3.

Current or previous violations of the South Carolina Code of Laws and/or Department regulations may jeopardize the issuance of a license for the facility or the licensing of any other facility or activity or addition to an existing facility that is owned or operated by the licensee. (I)

4.

No license may be issued, reissued, or renewed until all monetary penalties finally assessed against a facility have been paid and/or other enforcement actions resolved.

B.

Compliance. An initial license shall not be issued to an owner and/or operator until the owner and/or operator has demonstrated to the Department that the proposed facility is in substantial compliance with the licensing standards. In the event a licensee who already has a facility or activity licensed by the Department makes application for another facility or activity or increase in licensed capacity, the currently licensed facility or activity shall be in substantial compliance with the applicable standards prior to the Department issuing a license to the proposed facility or activity or an amended license to the existing facility. Facilities shall comply with applicable state, federal, and local laws, codes, and regulations. (II) 1.

A copy of the licensing regulation for nursing homes in South Carolina and a current

copy of R.61-25 shall be maintained in the facility by the licensee. 2. The license is considered property of the Department and may not be duplicated in such a manner that it cannot be distinguished from the original. (II)

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C.

Compliance with Building Standards. Licensed facilities shall be allowed to continue utilizing the previously-licensed structure without building modification and shall comply with the remainder of the standards within this regulation. Proposed facilities for which the licensee has received written approval from the Department's Division of Health Facilities Construction prior to the effective date of this regulation shall be allowed to comply with the previously-approved building standards and shall comply with the remainder of the standards within this regulation. Existing facilities are not required to modify square footage of resident rooms, sitting areas, and maximum number of beds in resident rooms. (II)

D.

Licensed Bed Capacity. No facility that has been licensed for a set number of licensed beds, as identified on the face of the license, shall exceed the licensed bed capacity. No facility shall establish new care or services or occupy additional beds or renovated space without first obtaining authorization from the Department. Beds for use of staff members and volunteers are not included in the licensed bed capacity number, provided such beds and locations are so identified and used

exclusively by staff members and volunteers. (I)

E.

Persons Received in Excess of Licensed Bed Capacity. No facility shall receive for care, treatment, or services persons in excess of the licensed bed capacity. As an exception, in the event that the facility temporarily provides shelter for evacuees who have been displaced due to a justified emergency, such as a disaster, then for the duration of that emergency, provided the health and safety of all residents are reasonably accommodated, it is permissible to temporarily exceed the licensed capacity for the facility in order to accommodate these persons (See Section 1503).

(I)

F.

Issuance and Terms of License. A license is issued by the Department and shall be posted in a conspicuous place in a public area within the facility. (II) 1. The issuance of a license does not guarantee adequacy of individual care, treatment and/or services, personal safety, and fire safety of any resident or occupant of a facility. (II) 2. A license is not assignable or transferable and is subject to suspension or revocation at any time by the Department for the licensee's failure to comply with the laws and regulations of this state. (II) 3. A license shall be effective for a specified facility, at a specific location(s), for a specified period following the date of issue as determined by the Department. A license shall remain in effect until the Department notifies the licensee of a change in that status. (II) 4. Multiple nursing homes owned by the same entity but not located on the same adjoining or contiguous property shall be separately licensed. Roads or local streets, except limited access, for example, interstate highways, shall not be considered as dividing otherwise adjoining or contiguous property. Separate licenses are not required for separate buildings on the same or adjoining grounds where a single

level or type of care is provided. 5. Multiple types of facilities on the same premises shall be licensed separately even though owned by the same entity. 6. A facility may furnish respite care if it complies compliance with the standards of this regulation.

1.

The issuance of a license does not guarantee adequacy of individual care, treatment and/or services, personal safety, and fire safety of any resident or occupant of a facility.

(II)

2.

A license is not assignable or transferable and is subject to suspension or revocation at any time by the Department for the licensee's failure to comply with the laws and regulations of this state. (II)

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A license shall be effective for a specified facility, at a specific location(s), for a specified period following the date of issue as determined by the Department. A license shall remain in effect until the Department notifies the licensee of a change in that status. (II)

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Multiple nursing homes owned by the same entity but not located on the same adjoining or contiguous property shall be separately licensed. Roads or local streets, except limited access, for example, interstate highways, shall not be considered as dividing otherwise adjoining or contiguous property. Separate licenses are not required for separate buildings on the same or adjoining grounds where a single level or type of care is provided.

5.

Multiple types of facilities on the same premises shall be licensed separately even though owned by the same entity.

6.

A facility may furnish respite care if it complies compliance with the standards of this regulation.

G.

Facility Name. No proposed facility shall be named nor shall any existing facility have its name changed to the same or similar name as any other facility licensed in South Carolina. The Department shall determine if names are similar. If an entity owns multiple facilities and elects to use a common name for two (2) or more of the facilities, the geographic area in which the facilities is located may be part of the name.

H.

Application. Applicants for a license shall submit to the Department a completed application on a form prescribed and furnished by the Department prior to initial licensing and periodically thereafter at intervals determined by the Department. The application includes both the applicant's oath assuring that the contents of the application are accurate and true, and that the applicant will comply with this regulation. The application shall be signed by the owner(s) if an individual or partnership; in the case of a corporation, by two (2) of its officers; or in the case of a governmental unit, by the head of the governmental department having jurisdiction. The application shall set forth the full name and address of the facility for which the license is sought and of the owner in the event his or her address is different from that of the facility, the names of the persons in control of the facility. The Department may require additional information, including affirmative evidence of the applicant's ability to comply with this regulation. Corporations or partnerships shall be registered with the South Carolina Office of the Secretary of State. Other required application information includes: 1. A copy of the business

license, as applicable; 2. A copy of the facility's emergency evacuation plan (See Section 1502); 3. A copy of the Nursing Home Administrator's license; 4. Articles of Incorporation or Partnership documents, as applicable; 5. A licensing fee (See Section 202); 6. A written agreement with a public fire department arranging for emergency response in case of fire, if applicable (See Section 1601.B); 7. A state and federal fingerprint-based criminal records check on the person(s) required to sign the application for licensure pursuant to S.C. Code Section 44-7-264.

1.

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2.

A copy of the facility's emergency evacuation plan (See Section 1502);

3.

A copy of the Nursing Home Administrator's license;

4.

Articles of Incorporation or Partnership documents, as applicable;

5.

A licensing fee (See Section 202);

6.

A written agreement with a public fire department arranging for emergency response in case of fire, if applicable (See Section 1601.B);

7.

A state and federal fingerprint-based criminal records check on the person(s) required to sign the application for licensure pursuant to S.C. Code Section 44-7-264.

I.

License Renewal. For a license to be renewed, applicants shall file an application with the Department, pay a licensing fee, and shall not be under consideration for

or undergoing enforcement actions by the Department. (II)

J.

Change of License. A licensee shall request issuance of a new or amended license by application to the Department prior to any of the following circumstances: (II) 1. Change of licensee; where any of the following occurs: a. A change in the controlling interest even if, in the case of a corporation or partnership, the legal entity retains its identity and name. b. A change of the legal entity, for example, sole proprietorship to or from a corporation, partnership to or from a corporation, even if the controlling interest does not change. c. In a new or change in management agreement, if the ultimate authority for the operation of the facility is surrendered and transferred from the licensee to a new manager, then a change of licensee has occurred. 2. Change of licensed bed capacity; or 3. Change of facility location from one geographic site to another.

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a.

A change in the controlling interest even if, in the case of a corporation or partnership, the legal entity retains its identity and name.

b.

A change of the legal entity, for example, sole proprietorship to or from a corporation,

partnership to or from a corporation, even if the controlling interest does not change.

C.

In a new or change in management agreement, if the ultimate authority for the operation of the facility is surrendered and transferred from the licensee to a new manager, then a change of licensee has occurred.

2.

Change of licensed bed capacity; or

3.

Change of facility location from one geographic site to another.

K.

Change of Facility Name or Address. Changes in facility name or address (as notified by the post office) shall be accomplished by application from the licensee.

(II)

L.

Facilities Owned and Operated by the Federal Government. A nursing home license shall not be required for, nor shall such a license be issued to facilities owned and operated by the federal government or facilities providing room, board, and personal care which do not require the technical skill, services or supervision of a licensed nurse.