

0720-18-.02 LICENSING PROCEDURES

(1)

No person, partnership, association, corporation, or state, county or local government unit, or any division, department, board or agency thereof, shall establish, conduct, operate, or maintain in the State of Tennessee any nursing home without having a license. A license shall be issued only to the applicant named and only for the premises listed in the application for licensure. Satellite facilities shall be prohibited. Licenses are not transferable or assignable and shall expire and become invalid annually on the anniversary date of their original issuance. The license shall be conspicuously posted in the nursing home.

(2)

In order to make application for a license:(a) The applicant shall submit an application on a form provided by the department along with a copy of the Certificate of Need (CON) issued by the Tennessee Health Services and Development Agency (HSDA). Any condition placed on the CON will also be placed on the license. (b) Each applicant for a license shall pay an annual license fee based on the number of nursing home beds. The fee must be submitted with the application and is not refundable. (c) The issuance of an application form is in no way a guarantee that the completed application will be accepted or that a license will be issued by the department. Residents shall not be admitted to the nursing home until a license has been issued. Applicants shall not hold themselves out to

the public as being a nursing home until the license has been issued. A license shall not be issued until the facility is in substantial compliance with these rules, including submission of all information required by T.C.A. § 68-11-206(1) or as later amended, and all information required by the Commissioner. (d) The applicant shall not use subterfuge or other evasive means to obtain a license, such as filing for a license through a second party when an individual has been denied a license or has had a license disciplined or has attempted to avoid inspection and review process. (e) The applicant shall allow the nursing home to be inspected by a Department surveyor. In the event that deficiencies are noted, the applicant shall submit a plan of corrective action to the Board that must be accepted by the Board. Once the deficiencies have been corrected, then the Board shall consider the application for licensure.

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Each applicant for a license shall pay an annual license fee based on the number of nursing home beds. The fee must be submitted with the application and is not refundable.

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The issuance of an application form is in no way a guarantee that the completed application will be accepted or that a license will be issued by the department.

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The applicant shall allow the nursing home to be inspected by a Department surveyor. In the event that deficiencies are noted, the applicant shall submit a plan of corrective action to the Board that must be accepted by the Board. Once the deficiencies have been corrected, then the Board shall consider the application for licensure.

(3)

A proposed change of ownership, including a change in a controlling interest, must be reported to the department a minimum of thirty (30) days prior to the change. A new application and fee must be received by the department before the license may be issued. (a) For the purpose of licensing, the licensee of a nursing home has the ultimate responsibility for the operation of the facility, including the final authority to make or control operational decisions and legal responsibility for the business management. A change of ownership occurs whenever this ultimate legal authority for the responsibility of the nursing home's operation is transferred. (b) A change of ownership occurs whenever there is a change in the legal structure by which the nursing home is owned and operated. (c) Transactions constituting a change of ownership include, but are not limited to, the following: 1. Transfer of the facility's legal title; 2. Lease of the facility's operations; 3. Dissolution of any

partnership that owns, or owns a controlling interest in, the facility. 4. One partnership is replaced by another through the removal, addition or substitution of a partner; 5. Removal of the general partner or general partners, if the facility is owned by a limited partnership; 6. Merger of a facility owner (a corporation) into another corporation where, after the merger, the owner's shares of capital stock are canceled; 7. The consolidation of a corporate facility owner with one or more corporations; or, 8. Transfers between levels of government. (d) Transactions which do not constitute a change of ownership include, but are not limited to, the following: 1. Changes in the membership of a corporate board of directors or board of trustees; 2. Two (2) or more corporations merge and the originally-licensed corporation survives; 3. Changes in the membership of a non-profit corporation; 4. Transfers between departments of the same level of government; or, 5. Corporate stock transfers or sales, even when a controlling interest. (e) Management agreements are generally not changes of ownership if the owner continues to retain ultimate authority for the operation of the facility. However, if the ultimate authority is surrendered and transferred from the owner to a new manager, then a change of ownership has occurred. (f) Sale/lease-back agreements shall not be treated as changes in ownership if the lease involves the facility's entire real and personal property and if the identity of the leasee, who shall continue the operation, retains the same legal form as the former owner.

(a)

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(b)

A change of ownership occurs whenever there is a change in the legal structure by which the nursing home is owned and operated.

(c)

Transactions constituting a change of ownership include, but are not limited to, the following: 1. Transfer of the facility's legal title; 2. Lease of the facility's operations; 3. Dissolution of any partnership that owns, or owns a controlling interest in, the facility. 4. One partnership is replaced by another through the removal, addition or substitution of a partner; 5. Removal of the general partner or general partners, if the facility is owned by a limited partnership; 6. Merger of a facility owner (a corporation) into another corporation where, after the merger, the owner's shares of capital stock are canceled; 7. The consolidation of a corporate facility owner with one or more corporations; or, 8. Transfers between levels of government.

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2.

Lease of the facility's operations;

3.

Dissolution of any partnership that owns, or owns a controlling interest in, the facility.

4.

One partnership is replaced by another through the removal, addition or substitution of a partner;

5.

Removal of the general partner or general partners, if the facility is owned by a limited partnership;

6.

Merger of a facility owner (a corporation) into another corporation where, after the merger, the owner's shares of capital stock are canceled;

7.

The consolidation of a corporate facility owner with one or more corporations; or,

8.

Transfers between levels of government.

(d)

Transactions which do not constitute a change of ownership include, but are not limited to, the following: 1. Changes in the membership of a corporate board of directors or board of trustees; 2. Two (2) or more corporations merge and the originally-licensed corporation survives; 3. Changes in the membership of a non-profit corporation; 4. Transfers between departments of the same level of government; or, 5. Corporate stock transfers or sales, even when a controlling interest.

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Two (2) or more corporations merge and the originally-licensed corporation survives;

3.

Changes in the membership of a non-profit corporation;

4.

Transfers between departments of the same level of government; or,

5.

Corporate stock transfers or sales, even when a controlling interest.

(e)

Management agreements are generally not changes of ownership if the owner continues to retain ultimate authority for the operation of the facility. However, if the

ultimate authority is surrendered and transferred from the owner to a new manager, then a change of ownership has occurred.

(f)

Sale/lease-back agreements shall not be treated as changes in ownership if the lease involves the facility's entire real and personal property and if the identity of the leasee, who shall continue the operation, retains the same legal form as the former owner.

(4)

Each nursing home, except those operated by the U.S. Government or the State of Tennessee, making application for license under this chapter shall pay annually to the department a fee based on the number of nursing home beds, as follows:

(a) Less than 25 beds \$ 1,040.00 (b) 25 to 49 beds, inclusive \$ 1,300.00 (c) 50 to 74 beds, inclusive \$ 1,560.00 (d) 75 to 99 beds, inclusive \$ 1,820.00 (e) 100 to 124 beds, inclusive \$ 2,080.00 (f) 125 to 149 beds, inclusive \$ 2,340.00 (g) 150 to 174 beds, inclusive \$ 2,600.00 (h) 175 to 199 beds, inclusive \$ 2,860.00 For nursing homes of two hundred (200) beds or more the fee shall be two thousand eight hundred and sixty dollars (\$2,860.00) plus two hundred dollars (\$200.00) for each twenty-five (25) beds or fraction thereof in excess of one hundred ninety-nine (199) beds. The fee shall be submitted with the application or renewal and is not refundable. When additional beds are licensed, the licensing procedures for new facilities must be followed and the difference between the fee previously paid and the fee for the new bed capacity, if any, must be paid.

(5)

Renewal. (a) In order to renew a license, each nursing home shall submit to periodic inspections by Department surveyors for compliance with these rules. If deficiencies are noted, the licensee shall submit an acceptable plan of corrective action and shall remedy the deficiencies. In addition, each licensee shall submit a

renewal form approved by the board and applicable renewal fee prior to the expiration date of the license. (b) If a licensee fails to renew its license prior to the date of its expiration but submits the renewal form and fee within sixty (60) days thereafter, the licensee may renew late by paying, in addition to the renewal fee, a late penalty of one hundred dollars (\$100) per month for each month or fraction of a month that renewal is late; provided that the late penalty shall not exceed twice the renewal fee. (c) In the event that a licensee fails to renew its license within the sixty (60) day grace period following the license expiration date, then the licensee shall reapply for a license by submitting the following to the Board office: 1. A completed application for licensure; 2. The license fee provided in rule 0720-18-.02(4); and 3. Any other information required by the Health Services and Development Agency. (d) Upon reapplication, the licensee shall submit to an inspection of the facility by Department of Health surveyors.

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(b)

If a licensee fails to renew its license prior to the date of its expiration but submits the renewal form and fee within sixty (60) days thereafter, the licensee may renew late by paying, in addition to the renewal fee, a late penalty of one hundred dollars (\$100) per month for each month or fraction of a month that renewal is late; provided that the late penalty shall not exceed twice the renewal fee.

(c)

In the event that a licensee fails to renew its license within the sixty (60) day grace period following the license expiration date, then the licensee shall reapply for a license by submitting the following to the Board office: 1. A completed application for licensure; 2. The license fee provided in rule 0720-18-.02(4); and 3. Any other information required by the Health Services and Development Agency.

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Any other information required by the Health Services and Development Agency.

(d)

Upon reapplication, the licensee shall submit to an inspection of the facility by Department of Health surveyors.