

DHS 132.14 Licensure

(1)

CATEGORIES. Nursing homes shall elect one of the following categories of licensure: (a) Skilled nursing facility; or (b) Intermediate care facility.

(a)

Skilled nursing facility; or

(b)

Intermediate care facility.

(1m)

LICENSURE AS AN INSTITUTION FOR MENTAL DISEASES.(a) Requirements. The department may grant a facility a license to operate as an institution for mental diseases if the following conditions are met: 1. The conversion of all or some of the beds within the facility will result in a physically identifiable unit of the facility, which may be a ward, contiguous wards, a wing, a floor or a building, and which is separately staffed; 2. The IMD shall have a minimum of 16 beds; 3. The conversion of beds to or from an IMD shall not increase the total number of beds within the facility; and 4. The facility has submitted an application under subs. (2) and (3) to convert all or a portion of its beds to an IMD and the department has determined that the facility is in substantial compliance with this chapter. A facility may not submit an application for conversion of beds to or from an IMD more than 2 times a year. (b) Exclusion. An existing facility applying to be

licensed in whole or part as an IMD is not subject to prior review under ch. 150, Stats.

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The conversion of beds to or from an IMD shall not increase the total number of beds within the facility; and

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The facility has submitted an application under subs. (2) and (3) to convert all or a portion of its beds to an IMD and the department has determined that the facility is in substantial compliance with this chapter. A facility may not submit an application for conversion of beds

to or from an IMD more than 2 times a year.

(b)

Exclusion. An existing facility applying to be licensed in whole or part as an IMD is not subject to prior review under ch. 150, Stats.

(2)

APPLICATION. Application for a license shall be made on a form provided by the department. Note: To obtain a copy of the application form for a license to operate a nursing home, write: Division of Quality Assurance, P.O. Box 2969, Madison, Wisconsin 53701-2969.

(3)

REQUIREMENTS FOR LICENSURE. (a) In every application the license applicant shall provide the following information: 1. The identities of all persons or business entities having the authority, directly or indirectly, to direct or cause the direction of the management or policies of the facility; 2. The identities of all persons or business entities having any ownership interest whatsoever in the facility, whether direct or indirect, and whether the interest is in the profits, land or building, including owners of any business entity which owns any part of the land or building; 3. The identities of all creditors holding a security interest in the premises, whether land or building; and 4. In the case of a change of ownership, disclosure of any relationship or connection between the old licensee and the new licensee, and between any owner or operator of the old licensee and the owner or operator of the new licensee, whether direct or indirect. 5. Disclosure of any financial failures directly or indirectly involving any person or business entity identified in the application concerning the operation of a residential or health care facility that resulted in any debt consolidation or restructuring, insolvency proceeding or mortgage foreclosure, or in the closing of a residential or health

care facility or the moving of its residents. In this subdivision "insolvency" means bankruptcies, receiverships, assignments for the benefit of creditors, and similar court-supervised proceedings. (b) The applicant shall provide any additional information requested by the department during its review of the license application. (bm) The applicant shall provide information to demonstrate that any person having the authority to directly manage the operation of the facility has the education, training or experience to operate and manage a health care facility to provide for the health, safety, and welfare of its residents in substantial compliance with state and federal requirements. (c) The applicant shall submit evidence to establish that he or she has sufficient resources to permit operation of the facility for a period of 6 months. (d) No license may be issued unless and until the applicant has supplied all information requested by the department.

(a)

In every application the license applicant shall provide the following information: 1. The identities of all persons or business entities having the authority, directly or indirectly, to direct or cause the direction of the management or policies of the facility; 2. The identities of all persons or business entities having any ownership interest whatsoever in the facility, whether direct or indirect, and whether the interest is in the profits, land or building, including owners of any business entity which owns any part of the land or building; 3. The identities of all creditors holding a security interest in the premises, whether land or building; and 4. In the case of a change of ownership, disclosure of any relationship or connection between the old licensee and the new licensee, and between any owner or operator of the old licensee and the owner or operator of the new licensee, whether direct or indirect. 5. Disclosure of any financial failures directly or indirectly involving any person or business entity identified in the application concerning the operation of a residential or health care facility that resulted

in any debt consolidation or restructuring, insolvency proceeding or mortgage foreclosure, or in the closing of a residential or health care facility or the moving of its residents. In this subdivision "insolvency" means bankruptcies, receiverships, assignments for the benefit of creditors, and similar court-supervised proceedings.

1.

The identities of all persons or business entities having the authority, directly or indirectly, to direct or cause the direction of the management or policies of the facility;

2.

The identities of all persons or business entities having any ownership interest whatsoever in the facility, whether direct or indirect, and whether the interest is in the profits, land or building, including owners of any business entity which owns any part of the land or building;

3.

The identities of all creditors holding a security interest in the premises, whether land or building; and

4.

In the case of a change of ownership, disclosure of any relationship or connection between the old licensee and the new licensee, and between any owner or operator of the old licensee and the owner or operator of the new licensee, whether direct or indirect.

5.

Disclosure of any financial failures directly or indirectly involving any person or business entity identified in the application concerning the operation of a residential or health care facility that resulted in any debt consolidation or restructuring, insolvency proceeding or mortgage foreclosure, or in the closing of a residential or health care facility or the moving of its residents. In this subdivision "insolvency" means bankruptcies, receiverships, assignments for the benefit of creditors, and similar court-supervised proceedings.

(b)

The applicant shall provide any additional information requested by the department during its review of the license application.

(bm)

The applicant shall provide information to demonstrate that any person having the authority to directly manage the operation of the facility has the education, training or experience to operate and manage a health care facility to provide for the health, safety, and welfare of its residents in substantial compliance with state and federal requirements.

(c)

The applicant shall submit evidence to establish that he or she has sufficient resources to permit operation of the facility for a period of 6 months.

(d)

No license may be issued unless and until the applicant has supplied all information requested by the department.

(4)

REVIEW OF APPLICATION. (a) Investigation. After receiving a complete application, the department shall investigate the applicant to determine if the applicant is fit and qualified to be a licensee and to determine if the applicant is able to comply with this chapter. (b) Fit and qualified. In making its determination of the applicant's fitness, the department shall review the information contained in the application and shall review any other documents that appear to be relevant in making that determination, including survey and complaint investigation findings for each facility with which the applicant is affiliated or was affiliated during the past 5 years. The department shall consider at least the following: 1. Any class A or class B violation, as defined under s. 50.04, Stats., issued by the department relating to the applicant's operation of a residential or health care facility in

Wisconsin; 2. Any adverse action against the applicant or any person or business entity named in the application by the licensing agency of this state or any other state relating to the applicant's or any person or business entity named in the application's operation of a residential or health care facility. In this subdivision, "adverse action" means an action initiated by a state licensing agency which resulted in a conditional license, the placement of a monitor or the appointment of a receiver, or the denial, suspension or revocation of the license of a residential or health care facility operated by the applicant or any person or business entity named in the application; 3. Any adverse action against the applicant or any person or business entity named in the application based upon noncompliance with federal statutes or regulations in the applicant's or any person or business entity named in the application's operation of a residential or health care facility in this or any other state. In this subdivision, "adverse action" means an action by a state or federal agency which resulted in the imposition of Category 3 remedies pursuant to 42 CFR sec. 488.408(e), placement of a state monitor or the appointment of a receiver, transfer of residents, or the denial, non-renewal, cancellation or termination of certification of a residential or health care facility operated by the applicant; 4. The frequency of noncompliance with state licensure and federal certification laws in the applicant's operation of a residential or health care facility in this or any other state; 5. Any denial, suspension, enjoining or revocation of a license the applicant had as a health care provider as defined in s. 146.81(1), Stats., or any conviction of the applicant for providing health care without a license; 6. Any conviction of the applicant for a crime involving neglect or abuse of patients or of the elderly or involving assaultive behavior or wanton disregard for the health or safety of others; 7. Any conviction of the applicant for a crime related to the delivery of health care services or

items; 8. Any conviction of the applicant for a crime involving controlled substances; 9. Any knowing or intentional failure or refusal by the applicant to disclose required ownership information; and 10. Any prior financial failures of the applicant and any person and related business entity identified in the application concerning the operation of a residential or health care facility that resulted in any debt consolidation or restructuring, insolvency proceeding or mortgage foreclosure or in the closing of residential or health care facility or the moving of its residents. "Insolvency" has the meaning provided in s. DHS 132.14(3) (a) 5

(a)

Investigation. After receiving a complete application, the department shall investigate the applicant to determine if the applicant is fit and qualified to be a licensee and to determine if the applicant is able to comply with this chapter.

(b)

Fit and qualified. In making its determination of the applicant's fitness, the department shall review the information contained in the application and shall review any other documents that appear to be relevant in making that determination, including survey and complaint investigation findings for each facility with which the applicant is affiliated or was affiliated during the past 5 years. The department shall consider at least the following: 1. Any class A or class B violation, as defined under s. 50.04, Stats., issued by the department relating to the applicant's operation of a residential or health care facility in Wisconsin; 2. Any adverse action against the applicant or any person or business entity named in the application by the licensing agency of this state or any other state relating to the applicant's or any person or business entity named in the application's operation of a residential or health care facility. In this subdivision, "adverse action" means an action initiated by a state licensing agency which resulted

in a conditional license, the placement of a monitor or the appointment of a receiver, or the denial, suspension or revocation of the license of a residential or health care facility operated by the applicant or any person or business entity named in the application; 3. Any adverse action against the applicant or any person or business entity named in the application based upon noncompliance with federal statutes or regulations in the applicant's or any person or business entity named in the application's operation of a residential or health care facility in this or any other state. In this subdivision, "adverse action" means an action by a state or federal agency which resulted in the imposition of Category 3 remedies pursuant to 42 CFR sec. 488.408(e), placement of a state monitor or the appointment of a receiver, transfer of residents, or the denial, non-renewal, cancellation or termination of certification of a residential or health care facility operated by the applicant; 4. The frequency of noncompliance with state licensure and federal certification laws in the applicant's operation of a residential or health care facility in this or any other state; 5. Any denial, suspension, enjoining or revocation of a license the applicant had as a health care provider as defined in s. 146.81(1), Stats., or any conviction of the applicant for providing health care without a license; 6. Any conviction of the applicant for a crime involving neglect or abuse of patients or of the elderly or involving assaultive behavior or wanton disregard for the health or safety of others; 7. Any conviction of the applicant for a crime related to the delivery of health care services or items; 8. Any conviction of the applicant for a crime involving controlled substances; 9. Any knowing or intentional failure or refusal by the applicant to disclose required ownership information; and 10. Any prior financial failures of the applicant and any person and related business entity identified in the application concerning the operation of a residential or health care facility that resulted in any debt consolidation or restructuring, insolvency proceeding or mortgage foreclosure or in the closing of

residential or health care facility or the moving of its residents. "Insolvency" has the meaning provided in s. DHS 132.14(3) (a) 5

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Any class A or class B violation, as defined under s. 50.04, Stats., issued by the department relating to the applicant's operation of a residential or health care facility in Wisconsin;

2.

Any adverse action against the applicant or any person or business entity named in the application by the licensing agency of this state or any other state relating to the applicant's or any person or business entity named in the application's operation of a residential or health care facility. In this subdivision, "adverse action" means an action initiated by a state licensing agency which resulted in a conditional license, the placement of a monitor or the appointment of a receiver, or the denial, suspension or revocation of the license of a residential or health care facility operated by the applicant or any person or business entity named in the application;

3.

Any adverse action against the applicant or any person or business entity named in the application based upon noncompliance with federal statutes or regulations in the applicant's or any person or business entity named in the application's operation of a residential or health care facility in this or any other state. In this subdivision, "adverse action" means an action by a state or federal agency which resulted in the imposition of Category 3 remedies pursuant to 42 CFR sec. 488.408(e), placement of a state monitor or the appointment of a receiver, transfer of residents, or the denial, non-renewal, cancellation or termination of certification of a residential or health care facility operated by the applicant;

4.

The frequency of noncompliance with state licensure and federal certification laws in the applicant's operation of a residential or health care facility in this or any other state;

5.

Any denial, suspension, enjoining or revocation of a license the applicant had as a health care provider as defined in s. 146.81(1), Stats., or any conviction of the applicant for providing health care without a license;

6.

Any conviction of the applicant for a crime involving neglect or abuse of patients or of the elderly or involving assaultive behavior or wanton disregard for the health or safety of others;

7.

Any conviction of the applicant for a crime related to the delivery of health care services or items;

8.

Any conviction of the applicant for a crime involving controlled substances;

9.

Any knowing or intentional failure or refusal by the applicant to disclose required ownership information; and

10.

Any prior financial failures of the applicant and any person and related business entity identified in the application concerning the operation of a residential or health care facility that resulted in any debt consolidation or restructuring, insolvency proceeding or mortgage foreclosure or in the closing of residential or health care facility or the moving of its residents.

"Insolvency" has the meaning provided in s. DHS 132.14(3) (a) 5

(5)

ACTION BY THE DEPARTMENT. Within 60 days after receiving a complete application for a license, the department shall either approve the application and issue a license or deny the application. The department shall deny a license to any

applicant who has a history, determined under sub. (4) (b) 1. to 4., of substantial noncompliance with federal or this state's or any state's nursing home requirements, or who fails under sub. (4) (b) 5. to 10., to qualify for a license. If the application for a license is denied, the department shall give the applicant reasons, in writing, for the denial and shall identify the process for appealing the denial.

(6)

TYPES OF LICENSE. (a) Probationary license. If the applicant has not been previously licensed under this chapter or if the facility is not in operation at the time application is made, the department shall issue a probationary license. A probationary license shall be valid for 12 months from the date of issuance unless sooner suspended or revoked under s. 50.03(5), Stats. If the applicant is found to be fit and qualified under sub. (4) and in substantial compliance with this chapter, the department shall issue a regular license upon expiration of the probationary license. The regular license is valid indefinitely unless suspended or revoked. (b) Regular license. If the applicant has been previously licensed, the department shall issue a regular license if the applicant is found to be in substantial compliance with this chapter. A regular license is valid indefinitely unless suspended or revoked.

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Probationary license. If the applicant has not been previously licensed under this chapter or if the facility is not in operation at the time application is made, the department shall issue a probationary license. A probationary license shall be valid for 12 months from the date of issuance unless sooner suspended or revoked under s. 50.03(5), Stats. If the applicant is found to be fit and qualified under sub. (4) and in substantial compliance with this chapter, the department shall issue a regular license

upon expiration of the probationary license. The regular license is valid indefinitely unless suspended or revoked.

(b)

Regular license. If the applicant has been previously licensed, the department shall issue a regular license if the applicant is found to be in substantial compliance with this chapter. A regular license is valid indefinitely unless suspended or revoked.

(7)

SCOPE OF LICENSE.(a) The license is issued only for the premises and the persons named in the license application, and may not be transferred or assigned by the licensee. (b) The license shall state any applicable restrictions, including maximum bed capacity and the level of care that may be provided, and any other limitations that the department considers appropriate and necessary taking all facts and circumstances into account. (c) A licensee shall fully comply with all requirements and restrictions of the license.

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The license is issued only for the premises and the persons named in the license application, and may not be transferred or assigned by the licensee.

(b)

The license shall state any applicable restrictions, including maximum bed capacity and the level of care that may be provided, and any other limitations that the department considers appropriate and necessary taking all facts and circumstances into account.

(c)

A licensee shall fully comply with all requirements and restrictions of the license.

(8)

REPORTING. Every 12 months, on a schedule determined by the department, a nursing home licensee shall submit a report to the department in the form and

containing the information that the department requires, including payment of the fee required under s. 50.135(2) (a), Stats. If a complete report is not timely filed, the department shall issue a warning to the licensee. If a nursing home licensee who has not filed a timely report fails to submit a complete report to the department within 60 days after the date established under the schedule determined by the department, the department may revoke the license.

(9)

REPORTING INVOLUNTARY ADMINISTRATION OF PSYCHOTROPIC MEDICATION. The licensee shall provide, in a format approved by the department, information required by the department to assess the facility's compliance with s. 55.14, Stats., relating to involuntary administration of psychotropic medication to a resident.