

## **200    GENERAL PROVISIONS FOR LICENSURE**

### **201    LICENSURE**

Nursing homes, or related institutions, shall be operated, conducted, or maintained in this State by obtaining a license pursuant to the provisions of these Licensing Standards. Separate institutions operated by the same management require separate licenses. Separate licenses are not required for separate buildings on the same grounds. The classification of license shall be Skilled Nursing Facility, Intermediate Care Facility, and Intermediate Care Facility for the Mentally Retarded.

Whenever ownership or controlling interest in the operation of a facility is sold, both the buyer and the seller must notify the Office of Long Term Care at least thirty (30) days prior to the completed sale. The thirty (30) day notice shall be the date the paperwork is stamped received by the Office of Long Term Care.

### **202    APPLICATION FOR LICENSE**

Applicants for license shall file a notarized application with the Division upon forms prescribed by the Division and shall pay an annual license fee of ten cents (\$0.10) per patient bed, or Ten Dollars (\$10), whichever is greater. This fee shall be paid to the State Treasury. If the license is denied, the fee will be returned to the applicant. Facilities operated by any unit or division of state or local government shall be exempted from payment of a licensing fee. Application shall be signed by the owner if individually owned, by one partner if owned under partnership, by two officers of the board if operated under corporation, church or non-profit association, and in case of a governmental unit, by the head of the governmental entity having jurisdiction over it. Applicants shall set forth the full name and address of the institutions for which license is sought, the names of the persons in control, a signed statement by a registered nurse indicating responsibility for nursing services of the home, and such other information as the Division may require.

In these instances where a distinct part of a facility is to be licensed as a Skilled Nursing Facility and the remainder of the facility is to be licensed under some other category, separate applications must be filed for each license and separate licensure fees will be required with each application.

Each home applying for and receiving a license must furnish the following information:

- The identity of each person directly or indirectly having an ownership interest of five (5) percent or more in such nursing home.
- In case such nursing home is organized as a corporation, the identify of each officer and director of the corporation.
- In case such nursing home is organized as a partnership, the identity of each partner.
- Identity of owners of building and equipment leased including ownership breakdown of leasing entity.

### **203 RENEWAL OF APPLICATION FOR LICENSURE**

Application for annual license renewal shall be postmarked no later than January 2<sup>nd</sup> of the succeeding calendar year. License applications for existing institutions shall be subject to a penalty of one dollar (\$1) per day after January 2<sup>nd</sup> of the succeeding year.

### **204 ISSUANCE OF LICENSE**

License shall be effective on a calendar year basis and shall expire on December 31<sup>st</sup> of each year. License shall be issued only for the premises and persons in the application and shall not be assignable or transferable.

### **205 DENIAL, REVOCATION, OR SUSPENSION OF LICENSE**

The Division is empowered to deny, suspend, or revoke licenses on any of the following grounds:

- 205.1** Violation of any of the provisions of Act 28 of 1979 or the rules and regulations lawfully promulgated hereunder.
- 205.2** Permitting, aiding, or abetting the commission of any unlawful act in connection with the operation of the institution, as defined in these regulations.
- 205.3** Conduct or practices detrimental to the health or safety of residents and employees of any such institutions, but this provision shall not be construed to have any reference to healing practices authorized by law, as defined in these regulations.
- 205.4** Failure to comply with the provisions of Act 58 of 1969 and the rules and regulations promulgated thereunder. (Note: The aforementioned act requires the licensure of nursing home administrators.)

### **206 NOTICE AND PROCEDURE ON HEARING PRIOR TO DENIAL, SUSPENSION, OR REVOCATION OF LICENSE**

Whenever the Division decides to deny, suspend, or revoke a license, it shall send to the applicant or licensee a notice stating the reasons for the action by certified mail. The applicant or licensee may appeal such notice to the Long Term Care Facility Advisory Board as permitted by Arkansas Statute Annotated §82-211. Procedures for appeal to the Long Term Care Facility Advisory Board are incorporated in these regulations as Appendix A.

### **207 APPEALS TO COURTS**

Any applicant or licensee who considers himself injured in his person, business, or property by final agency action shall be entitled to judicial review thereof. Proceedings for review shall be made by filing a petition in the Circuit Court of any county in which the petitioner does business or in the Circuit Court of Pulaski County within thirty (30) days after service upon the petitioner of the agency's final decision. All petitions for judicial review shall be in accordance with the Administrative Procedures Act Arkansas Statute Annotated §5-713.

## **208 PENALTIES**

Any person, partnership, association, or corporation, establishing, conducting, managing, or operating any institution within the meaning of this act (§§ 82-327 -- 82-354), without first obtaining a license therefor as herein provided, or who violates any provision of this act or regulations lawfully promulgated hereunder shall be guilty of a misdemeanor, and upon conviction thereof shall be liable to a fine of not less than Twenty-Five Dollars (\$25) nor more than One-Hundred Dollars (\$100) for the first offense and not less than One-Hundred Dollars (\$100) nor more than Five-Hundred Dollars (\$500) for each subsequent offense, and each day such institution shall operate after a first conviction shall be considered a subsequent offense. (Section 27, Act 414 of 1961)

## **209 INSPECTION**

All institutions to which these rules and regulations apply shall be subject to inspection for reasonable cause at any time by the authorized representation of the Division.

## **210 COMPLIANCE**

An initial license will not be issued until the applicant has demonstrated to the satisfaction of the Division that the facility is in substantial compliance with the licensing standards set forth in these regulations.

## **211 NONCOMPLIANCE**

When noncompliance of the licensing standards are detected during surveys, licensees will be notified of the violations and will be requested to provide a plan of correction with a timetable for corrections. If an item of noncompliance is of a serious nature that affects the health and safety of patients and is not promptly corrected, action will be taken to suspend or revoke the facility's license.

## **212 VOLUNTARY CLOSURE**

Any nursing home, or related institution, that voluntarily closes must meet the regulations for new construction to be eligible for re-licensure.

## **213 EXCEPTION TO LICENSING STANDARDS**

The Division reserves the right to make temporary exceptions to these standards where it is determined that the health and welfare of the community requires the services of the institution. Exceptions will be limited to unusual circumstances and the safety and well-being of the residents will be carefully evaluated prior to making such exceptions.

Overbeds will be authorized only in cases of emergency. An emergency exists when it can be demonstrated that the resident's health or safety would be placed in immediate jeopardy if relocation were not accomplished. A fire, natural disaster (e.g., tornado, flood, etc.) or other catastrophic event that necessitates resident relocation will be considered an emergency. The Office of Long Term Care must be contacted for prior authorization of the overbed, and all authorizations must be in writing.

## **214 PROVISIONAL LICENSURE**

Subject to the requirements below, a provisional license shall be issued to the Applicant and new operator of the long-term care facility when the Office of Long Term Care has received the Application for Licensure to Conduct a Long Term Care Facility. A provisional license shall be effective from the date the Office of Long-Term Care provides notice to the Applicant and new operator, until the date the long-term care license is issued. With the exception of Medicaid or Medicare provider status, a provisional license confers upon the holder all the rights and duties of licensure.

Prior to the issuance of a provisional license:

1. The purchaser and the seller of the long-term care facility shall provide the Office of Long Term Care with written notice of the change of ownership at least thirty (30) days prior to the effective date of the sale.
2. The Applicant and new operator of the long-term care facility shall provide the Office of Long Term Care with the application for licensure, including all applicable fees.
3. The Applicant and new operator of the long-term care facility shall provide the Office of Long Term Care with evidence of transfer of operational control signed by all applicable parties.

A provisional license holder may operate the facility under a new name, whether fictitious or otherwise. For purposes of this section, the term new name means a name that is different than the name under which the facility was operated by the prior owner, and the term “operate” means that the provisional license holder may hold the facility out to the public using the new name. Examples include, but are not limited to, signage, letterhead, brochures or advertising (regardless of media) that bears the new name.

In the event that the provisional license holder operates the facility under a new name, the facility shall utilize the prior name in all communications with the Office of Long Term Care until such time as the license is issued. Such communications include, but are not limited to, incident reports, notices, Plans of Correction, and MDS submissions. Upon the issuance of the license, the facility shall utilize the new name in all communications with the Office of Long Term Care.

## **215-299 RESERVED**