

ARTICLE 2. LICENSE

s 72201. Application Required.

(a) Whenever either of the following circumstances occur, verified application for a new license completed on forms furnished by the Department shall be submitted to the Department.

(1) Establishment of a skilled nursing facility.

(2) Change of ownership.

(b) Whenever any of the following circumstances occur, the licensee shall submit to the Department a verified application for a corrected license completed on forms furnished by the Department.

(1) Construction of new or replacement skilled nursing facility.

(2) Increase in licensed bed capacity.

(3) Change of name of facility.

(4) Change of licensed category.

(5) Change of location of facility.

(6) Change in bed classification.

(7) Addition or deletion of any special or optional units listed in Article 4.

Note: Authority cited: Sections 208(a), 1254 and 1275, Health and Safety Code.

Reference: Sections 1254, 1265 and 1267.5, Health and Safety Code.

s 72203. Fee.

(a) Each application for a license shall be accompanied by the prescribed fee. The annual license fee under this section shall be effective for the calendar year of 1979.

(1) The annual fee for a license to operate a skilled nursing facility which is being licensed for the first time or upon a change of ownership, change of location or renewal of license shall be that specified in the following schedule:

| Capacity Requested | Fee |
|------------------------|------------------------------------|
| 1-49 inclusive | \$948 plus \$13 per licensed bed |
| 50-99 inclusive | \$1,186 plus \$13 per licensed bed |
| 100 and over inclusive | \$1,540 plus \$13 per licensed bed |

(2) No fee shall be refunded to the applicant if the application is withdrawn or if the application is denied by the Department.

(3) An additional fee of \$25.00 shall be paid for processing any change of name. However, no additional fee shall be charged for any change of name which is processed upon a renewal application or upon application filed because of a change of ownership.

(b) Application fees for licenses which cover periods in excess of 12 months shall be prorated on the basis of the total number of months to be licensed divided by 12 months. (Example: 18 months divided by 12 equals 1.5 times the application fee specified in the fee schedule.)

(c) Applications for provisional licenses (for six-month periods) shall be subject to the full amount of the fee specified in the fee schedule. If upon the expiration of the provisional license a second provisional (six-month period) license is to be issued, the licensee shall receive credit for the unused portion of the fee collected and no additional fee will be required of the licensee.

If a regular license is issued upon the expiration of the first provisional license, the unused portion of the fee collected for the provisional license shall be credited against the annual fee required for the regular license. If neither a second provisional or a regular license is to be issued to the applicant, there will be no refund or any portion of the fee paid for the provisional license.

(d) When there is an increase in licensed bed capacity or a change of classification of licensure, license fees already paid that year shall be credited against the total fee due for the new bed capacity.

Note: Authority cited: Section 1275, Health and Safety Code. Reference: Sections 1266 and 1276, Health and Safety Code.

s 72205. Safety, Zoning and Building Clearance.

(a) A license shall not be issued to any skilled nursing facility which does not conform to the State Fire Marshal's requirements on fire and life safety and the state requirements on environmental impact and to local fire safety, zoning and building ordinances. Evidence of such compliances shall be presented in writing to the Department.

(b) The licensee shall maintain the skilled nursing facility in a safe structural condition. If the Department determines in a written report submitted to the licensee that an evaluation of the structural condition of a skilled nursing facility building is necessary, the licensee may be required to submit a report by a licensed structural engineer which shall establish a basis for elimination or correcting the structural conditions which may be hazardous to occupants. The licensee shall eliminate or correct any hazardous conditions.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1265.8 and 1276, Health and Safety Code.

s 72207. Separate Licenses.

Separate licenses shall be required for skilled nursing facilities which are maintained on separate premises even though they are under the same management. Separate licenses shall not be required for separate buildings on the same grounds or adjacent grounds.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Section 1251, Health and Safety Code.

s 72209. Posting.

The license or a true copy thereof shall be conspicuously posted in a location accessible to public view within the facility.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1253 and 1276, Health and Safety Code.

s 72211. Report of Changes.

(a) The licensee shall notify the Department in writing of any changes in the information provided pursuant to Sections 1265 and 1267.5, Health and Safety Code, within 10 days of such changes. This notification shall include information and documentation regarding such changes.

(b) When a change of administrator occurs, the Department shall be notified within 10 days in writing by the licensee. Such writing shall include the name and license number of the new administrator.

(c) Each licensee shall notify the Department within 10 days in writing of any change of the mailing address of the licensee. Such writing shall include the new mailing address of the licensee.

(d) When a change in the principal officer of a corporate licensee (chairman, president or general manager) occurs the Department shall be notified within 10 days in writing by the licensee. Such writing shall include the name and business address of such officer.

(e) Any decrease in licensed bed capacity of the facility shall require notification by letter to the Department and shall result in the issuance of a corrected license.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1265 and 1267.5, Health and Safety Code.

s 72213. Program Flexibility.

(a) All skilled nursing facilities shall maintain compliance with the licensing requirements. These requirements do not prohibit the use of alternate concepts, methods, procedures, techniques, equipment, personnel qualifications or the conducting of pilot projects, provided such exceptions are carried out with the provisions for safe and adequate care and with the prior written approval of the department. Such approval shall provide for the terms and conditions under which the exception is granted. A written request and substantiating evidence supporting the request shall be submitted by the applicant or licensee to the Department.

(b) Any approval of the Department granted under this Section, or a true copy thereof, shall be posted immediately adjacent to the facility's license.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Section 1268, Health and Safety Code.

s 72215. Voluntary Suspension of License, Service or Licensed Beds.

(a) Any license, or portion thereof, which has been suspended for a period of time approved by the Department shall remain subject to all renewal requirements of an active license, including the payment of license renewal fees during the period of suspension.

(b) If the license is not reinstated during the period of approved suspension, the license shall expire automatically and shall not qualify for reinstatement; however, an application may be submitted for a new license.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Section 1300, Health and Safety Code.

s 72216. Conviction of Crime: Standards for Evaluating Rehabilitation.

When considering the denial, suspension or revocation of a license based on the conviction of a crime in accordance with Section 1265.1 or 1294 of the Health and Safety Code, the following criteria shall be considered in evaluating rehabilitation:

(1) The nature and the seriousness of the crime(s) under consideration.

(2) Evidence of conduct subsequent to the crime which suggests responsible or irresponsible character.

(3) The time which has elapsed since commission of the crime(s) or conduct referred to in subdivision (1) or (2).

(4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanction lawfully imposed against the applicant.

(5) Any rehabilitation evidence submitted by the applicant.

Note: Authority cited: Sections 208(a), 1265.2 and 1275, Health and Safety Code. Reference: Sections 1265.1, 1265.2 and 1294, Health and Safety Code.

HISTORY

New section filed 9-13-84; effective thirtieth day thereafter (Register 84, No. 37).

s 72217. Bonds.

(a) The amount of the Bond required in Section 1318 of the Health and Safety Code shall be in accordance with the following schedule:

| (1) Total Amount Handled per month | Bonds Required |
|------------------------------------|----------------|
| \$750 or less..... | \$1,000 |
| \$751 to \$1,500..... | \$2,000 |
| \$1,501 to \$2,500..... | \$3,000 |

(2) Every further increment of \$1,000 or fraction thereof shall require an additional \$1,000 on the bond.

(b) Each application for an original license or renewal of license shall be accompanied by an affidavit on a form provided by the Department. The affidavit shall state whether the license handles or will handle money of patients and the maximum amount of money to be handled for:

(1) Any patient.

(2) All patients in any month.

(c) No licensee shall either handle money of a patient or handle amounts greater than those stated in the affidavit submitted by him without first notifying the Department and filing a new or revised bond if requested.

(d) Charges for the surety company bond to handle patient monies shall not be paid out of those monies.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Section 1318, Health and Safety Code.