

.61 Financial Disclosure.

A. A licensee shall have financial resources in accordance with this regulation in order to:

- (1) Satisfy obligations; and
- (2) Ensure at all times the delivery of essential care and services, such as nursing, dietary services, or utilities.

B. A licensee shall notify the Secretary of significant adverse changes in financial condition which reasonably could be anticipated to adversely affect the delivery of essential care and services. These adverse changes include, but are not limited to, the following situations:

(1) The facility fails to maintain the facility's utilities or a quantity of supplies, including nursing, dietary, pharmaceutical, or other care and service supplies, sufficient to meet the needs of the residents;

(2) The facility is unable to meet its employee payroll or benefits obligations;

(3) The license holder or entity legally authorized to act on behalf of the license holder receives notice that a judgment or tax lien of at least \$5,000 has been filed, recorded, or levied against the facility or any of the assets of the facility or the license holder and the judgment or tax lien is not satisfied, or an appropriate extension has not been obtained, within 30 days after receipt of the notice;

(4) A financial institution refuses to honor facility-operation-related checks or other financial instruments issued by the license holder or entity legally authorized to act on behalf of the license holder, and:

(a) The cumulative amount of the checks or financial instruments is \$5,000 or more; and

(b) The checks or financial instruments are not honored or replaced to the satisfaction of the holders of the instruments within 10 working days after the holders have notified the license holder, operator, administrator, manager, or the person authorized to issue the instrument of the dishonored items;

(5) The license holder, or entity legally authorized to act on behalf of the license holder fails to make timely payments of any facility-related tax of at least \$1,000, and fails to satisfy the tax within 30 working days after the date the tax becomes delinquent;

(6) The license holder, owner of 25 percent of the license holder's assets, or facility management company files a voluntary bankruptcy petition, or a creditor files an involuntary bankruptcy petition against the facility management company, license holder, or owner of 25 percent or greater of the license holder's assets;

(7) A court appoints a bankruptcy trustee for the facility;

(8) A person seeking appointment of a receiver for the facility files a petition for the appointment of a receiver for the facility in any jurisdiction;

(9) The license holder, or person legally authorized to act on behalf of the license holder is unable to meet conditions of a facility-operation-related loan or material debt covenant unless the loan or material debt covenant has been waived or cured, and that inability has led to a recall by the issuing entity; or

(10) The license holder, or entity legally authorized to act on behalf of the license holder, is delinquent on more than \$5,000 of facility-related contractual obligations or vendor contracts that affect essential care and services for residents and has not cured the delinquency within 10 working days after receipt of notice from the creditor or creditors to pay the debt.

C. The license holder shall notify the Secretary in writing of a significant adverse change in its financial condition as required by §B of this regulation within 72 hours after the license holder becomes aware of, or reasonably should have become aware of, the change in its financial condition.

D. The license holder's notice required by §B of this regulation shall include a description of:

(1) The specific significant adverse change in financial condition;

(2) How the significant adverse change in financial condition affects or may affect the license holder's ability to deliver essential care and services; and

(3) The actions the license holder has taken to address the significant adverse change in financial condition.

E. The license holder shall fax, email, or hand-deliver the notice required in §B of this regulation to the Department's Office of Health Care Quality, and the notice shall be kept on file with a copy of the delivery confirmation.

F. The license holder shall provide any other information, unless prohibited under applicable laws, requested by the Office of Health Care Quality to substantiate continued compliance with the requirements of this regulation within 30 days after the request. Failure to comply with the requirements of this regulation may result in the Secretary imposing one or more sanctions, as appropriate, from Regulations .51—.58 of this chapter against the facility.

G. The information submitted pursuant to §D of this regulation is confidential and may not be disclosed without the consent of the licensee.

H. Unless disclosure of the information is otherwise prohibited by applicable law, the provisions of §G of this regulation do not apply to:

(1) The holder of a license that has been suspended or revoked; or

(2) The use of information in:

(a) An administrative proceeding initiated by the Department; or

(b) A judicial proceeding.