

PART III THE LICENSE

104 THE LICENSE

104.01 License. A license shall be issued to each facility that meets the requirements as set forth in these regulations.

105 APPLICATION FOR LICENSE

105.01 Application. Application for a license or renewal of a license shall be made in writing to the licensing agency on forms provided by the licensing agency which shall contain such information as the licensing agency may require. The application shall require reasonable, affirmative evidence of ability to comply with these rules, regulations, and minimum standards.

105.02 Fee. In accordance with §43-11-7 of the Mississippi Code of 1972, as amended, each application for initial licensure shall be accompanied by a fee of twenty dollars (\$20.00) per bed in check or money order made payable to the "Mississippi Department of Health" (otherwise known as the licensing agency), with a minimum fee of two hundred dollars (\$200.00). The fee is nonrefundable. The fee for licensure renewal shall be twenty dollars (\$20.00) per bed, with a minimum fee of two-hundred dollars (\$200.00), in accordance with §43-11-9 of the Mississippi Code of 1972, as amended.

105.03 Name of Institution. Every facility or infirm shall be designated by a permanent and distinctive name which shall be used in applying for a license and shall not be changed without first notifying the licensing agency in writing and receiving written approval of the change from the licensing agency. Such notice shall specify the name to be discontinued as well as the new name proposed. The words "hospital", "sanitarium", "sanatorium", "clinic" or any other word which would reflect a different type of facility shall not appear in the title of a facility. Only the official name by which the facility is licensed shall be used in telephone listings, stationery, advertising, etc. Two or more facilities shall not be licensed under a similar name.

105.04 Number of Beds. Each application for license shall specify the maximum number of beds in the facility as determined by Paragraph 118.02 of these regulations. The maximum number of beds for which the facility is licensed shall not be exceeded.

106 LICENSING

106.01 Issuance of License. All licenses issued by the licensing agency shall set forth the name of the facility, the location, the name of the licensee, the classification of the institution, the type of building, the bed capacity for which the institution is licensed, and the license number.

106.02 Separate License. Separate license shall be required for institutions maintained on separate premises even though under the same management. However, separate license are not required for buildings on the same grounds which are under the same management.

106.03 Posting of License. The license shall be posted in a conspicuous place on the license premises and shall be available for review by an interested person.

106.04 License Not Transferable. The license for a facility is not transferable or assignable to any other person except by written approval of the licensing agency and shall be issued only for the premises named in the application. The license shall be surrendered to the licensing agency on change of ownership, licensee, name or location of the institution, or in the event that the institution ceases to be operated as a facility. In event of change of ownership, licensee, name or location of the facility, a new application shall be filed.

106.05 Expiration of License. Each license shall expire on March 31 following the date of issuance.

106.06 Renewal of License. License shall be renewable by the licensee.

1. Filing of an application for renewal of licensee.
2. Submission of appropriate licensure renewal fee as mandated in Section 105.2.
3. Approval of an annual report by the licensing agency.
4. Maintenance by the institution of minimum standards in its physical facility, staff, services and operation as set forth in these regulations.

107 DENIAL, SUSPENSION, OR REVOCATION OF LICENSE

107.01 Denial or Revocation of License: Hearing and Review. The licensing agency after notice and opportunity for a hearing to the applicant or licensee is authorized to deny, suspend, or revoke a license in any case in which it finds that there has been a substantial failure to comply with the requirements established under the law and these regulations. Also, the following shall be grounds for denial or revocation of license.

1. Fraud on the part of the licensee in applying for a license.
2. A willful or repeated violation by the licensee of any of the provisions of §43-11-1 et seq., of the Mississippi Code of 1972, as amended, and/or of the rules, regulations, and minimum standards established by the licensing agency.

3. Use of alcoholic beverages or narcotic drugs by the licensee or other personnel of the home, to the extent which threatens the well-being or safety of the resident.

4. Conviction of the licensee of a felony.

5. Publicly misrepresenting the home and/or its services.

6. Permitting, aiding, abetting the commission of any unlawful act.

7. Conduct or practices detrimental to the health or safety of residents and employees of said facilities provided that this provision shall not be construed to have any reference to healing practices authorized by law. Detrimental practices include but are not necessarily limited to:

a. Cruelty to residents or indifference of their needs which are essential to their general well being and health.

b. Misappropriation of the money or property of a resident.

c. Failure to provide food adequate for the needs of the resident.

d. Inadequate staff to provide safe care and supervision of a resident.

e. Failure to call a physician or nurse practitioner when required by the resident's condition.

f. Failure to notify next of kin when a resident's conditions become critical.

g. Admission of a resident whose condition demands care beyond the level of care provided by the facility as determined by its classification.

107.02 Immediate Revocation of License: Pursuant to Section 41-3-15, the State Department of Health is authorized and empowered, to revoke, immediately, the license and require closure of any institution for the aged or infirm, including any other remedy less than closure to protect the health and safety of the residents of said institution or the health and safety of the general public.

108 PROVISION FOR HEARING AND APPEAL FOLLOWING DENIAL OR REVOCATION OF LICENSE; PENALTIES

108.01 Administrative Decision. The licensing agency will provide an opportunity for

a fair hearing to every applicant or licensee who is dissatisfied with administrative decisions made in the denial or revocation of a license, or who qualifies pursuant to §1208.1 to appeal from an adverse determination in an informal dispute resolution proceeding.

1. The licensing agency shall notify the applicant or licensee by certified mail or personal service the particular reasons for the proposed denial or revocation of license, or of the findings in the informal dispute resolution proceeding. Upon written request of applicant or licensee within ten (10) days of the date of notification the licensing agency shall fix a date not less than thirty (30) days from the date of such service at which time the applicant or licensee shall be given an opportunity for a prompt and fair hearing.

2. On the basis of such hearing or upon default of the applicant or licensee, the licensing agency shall make a determination specifying its findings of fact and conclusions of law. A copy of such determination shall be sent by registered mail to the last known address of the applicant or licensee or served personally upon the applicant or licensee.

3. The decision revoking, suspending, denying the application or license, or upholding the findings of the informal dispute resolution proceeding shall become final thirty (30) days after it is so mailed or served upon the applicant or licensee; however in matters involving the revocation, suspension, or denial of an application or license, or an enforcement action, the applicant or licensee may within such thirty (30) day period, appeal the decision to the Chancery Court pursuant to §43-11-23 of the Mississippi Code of 1972, as amended. An additional period of time may be granted at the discretion of the licensing agency.

108.02 Penalties. Any person establishing, conducting, managing, or operating a facility without a license shall be declared in violation of these regulations and Chapter 451 of the Laws of Mississippi of the Regular Legislative Session of 1979 and subject to the penalties specified in §18 thereof.