

**FF. "SUPERVISION"** means at least intermittent face-to-face contact between supervisor and assistant, with the supervisor instructing and overseeing the assistant, but does not require the continuous presence of the supervisor in the same building as the assistant.

**GG. "TOUR OF DUTY"** means a portion of the day during which a shift of resident care personnel are on duty.

**HH. "UNIT DOSE DRUG DELIVERY SYSTEM"** means a system for the distribution of medications in which single doses of medications are individually packaged and sealed for distribution to residents.

**II. "VARIANCE"** means an act on the part of the Licensing Authority to refrain from pressing or enforcing compliance with a portion or portions of these regulations for an unspecified period of time where the granting of a variance will not create a danger to the health, safety, or welfare of residents or staff of a long term care facility, and is at the sole discretion of the Licensing Authority.

**JJ. "WAIVE/WAIVERS"** means to refrain from pressing or enforcing compliance with a portion or portions of these regulations for a limited period of time provided the health, safety, or welfare of residents and staff are not in danger. Waivers are issued at the sole discretion of the Licensing Authority.

[7-1-60, 5-2-89, 10-31-96, 6-15-98; 7.9.2.7 NMAC – Rn, 7 NMAC 9.2.7, 8-31-00]

#### **7.9.2.8 LICENSURE:**

##### **A. APPLICATION/REQUIREMENTS FOR LICENSURE:**

- (1) All initial applications shall be made on forms provided by the Licensing Authority.
  - (a) All information requested on the application must be provided.
  - (b) The application must be dated and signed by the person who shall be the licensee.
  - (c) The application must be notarized.
- (2) In every application, the applicant shall provide the following information:
  - (a) 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;
  - (b) The identities of all persons or business entities having five percent (5%) 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, and
  - (c) The identities of all creditors holding a security interest in the premises, whether land or building; and
  - (d) 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 new licensee, whether direct or indirect.
- (3) The applicant shall provide to the Department, information including, but not limited to, information regarding felony convictions, civil actions involving fraud, embezzlement or misappropriation of property, any state or federal adverse action resulting in suspension or revocation of license or permit.
- (4) The new licensee shall submit evidence to establish that he or she has sufficient resources to permit operation of the facility for a period of six (6) months.
- (5) No license may be issued unless and until the applicant has supplied all information requested by the Department.
- (6) Fees: All applications for initial licensure must be accompanied by the required fee.
  - (a) Current fee schedules may be requested from the Licensing Authority.
  - (b) Fees must be in the form of a certified check, money order, personal or business check made payable to the State of New Mexico.
  - (c) Fees are non-refundable.

##### **B. ACTION BY THE DEPARTMENT:**

- (1) After receiving complete application, the Department shall investigate the applicant to determine the applicant's ability to comply with these regulations.
- (2) Within sixty (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. If the application for a license is denied, the Department shall give the applicant reasons, in writing, for the denial.

(3) The Licensing Authority shall not issue a new license if the applicant has had a health facility license revoked or denied renewal, or has surrendered a license under threat of revocation or denial of renewal, or has lost certification as a Medicaid provider as a result of violations of applicable Medicaid requirements. The Licensing Authority may refuse to issue a new license if the applicant has been cited repeatedly for violations of applicable regulations found to be Class A or Class B deficiencies as defined in *Health Facility Sanctions and Civil Monetary Penalties*, 7NMAC 1.8, or has been noncompliant with plans of correction .  
[7-1-60, 7-1-64, 5-2-89, 10-31-96, 7.9.2.8 NMAC – Rn & A, 7 NMAC 9.2.8, 8-31-00]

**7.9.2.9 TYPES OF LICENSE:**

**A. ANNUAL LICENSE:** An annual license is issued for a one (1) year period to a long term care facility which has met all requirements of these regulations.

**B. TEMPORARY LICENSE:** The Licensing Authority may, at its sole discretion, issue a temporary license prior to the initial survey, or when the Licensing Authority finds partial compliance with these regulations.

(1) A temporary license shall cover a period of time, not to exceed one-hundred twenty (120) days, during which the facility must correct all specified deficiencies.

(2) In accordance with Section 24-1-5 (D) NMSA 1978, no more than two (2) consecutive temporary licenses shall be issued.

**C. AMENDED LICENSE:** A license must apply to the Licensing Authority for an amended license when there is a change of Administrator/Director, when there is a change of name for the facility, when a change in capacity is sought, a change in bed classification is sought, or an addition or deletion of any special or operation unit(s) as listed in these regulations is sought.

(1) Application must be on a form provided by the Licensing Authority.

(2) Application must be accompanied by the required fee for amended license.

(3) Application must be submitted within ten (10) working days of the change.

[7-1-60, 5-2-89, 10-31-96; 7.9.2.9 NMAC – Rn, 7 NMAC 9.2.9, 8-31-00]

**7.9.2.10 SCOPE OF LICENSE:**

**A.** The licensed 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.

[7-1-60, 5-2-89; 7.9.2.10 NMAC – Rn, 7 NMAC 9.2.10, 8-31-00]

**7.9.2.11 SEPARATE LICENSES:** Separate licenses shall be required for 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 ground or adjacent ground.

[5-2-89; 7.9.2.11 NMAC – Rn, 7 NMAC 9.2.11, 8-31-00]

**7.9.2.12 LICENSE RENEWAL:**

**A.** Licensee must submit a renewal application on forms provided by the Licensing Authority, along with the required fee at least thirty (30) days prior to expiration of the current license.

**B.** Upon receipt of renewal application and required fee prior to expiration of current license, the Licensing Authority will issue a new license effective the day following the date of expiration of the current license if the facility is in substantial compliance with these regulations.

**C.** If a licensee fails to submit a renewal application with the required fee and the current license expires, the long term care facility shall cease operation until it obtains a new license through the initial licensure procedures. Section 24-1-5 (A) NMSA 1978, as amended, provides that no health facility shall be operated without a license.