

33-07-03.2-03. Application for and issuance of license.

An entity meeting the definition of nursing facility in this chapter must obtain a license from the department to operate in North Dakota. No person or entity shall establish or operate a facility without first having obtained a license.

1. Any person or entity who owns or leases a facility and desires to maintain or operate it shall apply to the department for a license in the form prescribed and shall obtain an initial license before accepting residents for care or treatment.

a. The department shall not approve an application for an initial license unless:

(1) The application and all required attachments and statements submitted by the applicant meet the requirements of this chapter and chapter 33-07-04.2.

(2) The department has conducted an inspection or investigation of the facility to determine compliance with this chapter and chapter 33-07-04.2.

(3) The department has completed an investigation into the fitness of the applicant and determined the applicant to be fit based on the following:

(a) Evidence provided by the applicant which identifies that financial resources and sources of revenue for the applicant's facility appear adequate to provide staff, services, and the physical environment sufficient to comply with North Dakota Century Code chapter 23-16, this chapter, and chapter 33-07-04.2;

(b) The applicant has furnished the department with a signed and notarized statement describing and dating every proceeding, within five years of the date of the application, in which the applicant was involved that resulted in a limitation, suspension, revocation, or refusal to grant or renew a nursing facility license or resulted in a ban on medicare or medicaid admissions or a medicare or medicaid decertification action; and

(c) The applicant shall furnish a signed and notarized statement to the department describing every criminal proceeding within five years of the date of the application in which the licensee or any of

its shareholders owning interest of five percent or more, officers, directors, partners, or other controlling or managing persons, has been convicted or nolo contendere plea accepted, of a criminal offense related to the operation, management, or ownership of a nursing facility.

b. The initial license shall be valid for a period not to exceed one year and shall expire on December thirty-first of the year issued.

2. The department shall issue a renewal license when a facility is in substantial compliance with the provisions of these licensing requirements, as determined by periodic unannounced onsite surveys conducted by the department and other information submitted by the facility upon the request of the department. Renewal licenses shall expire on December thirty-first of each year. The application for renewal must be received by the department with sufficient time prior to the beginning of the licensure period to process.

3. The department may issue a provisional license, valid for a specific period of time not to exceed ninety days, when there are one or more serious deficiencies or a pattern of deficiencies related to compliance with these licensing requirements.

a. A provisional license may be renewed at the discretion of the department, provided the licensee demonstrates to the department that it has made progress towards compliance and can effect compliance within the next ninety days. A provisional license may be renewed one time.

b. When a facility operating under a provisional license notifies the department that it has corrected its deficiencies, the department will ascertain correction. Upon finding compliance, the department shall issue a renewal license.

4. In the case where two or more buildings operated under the same management are used in the care of residents, a separate license is required for each building.

5. Each license is valid only in the hands of the entity to whom it is issued and is not subject to sale, assignment, or other transfer, voluntary or involuntary, nor is a license valid for any premises other than those for which originally issued. The license must be displayed in a conspicuous place within the facility.

6. The facility shall notify the department in writing thirty days in advance

of any of the following changes:

a. Transfer or change of ownership.

b. Transfer of operating rights, including a lease of the facility where the lessor retains no control of the operation or management of the facility.

c. Change in bed capacity.

d. Change in the name of the facility.

7. The facility shall notify the department in writing within thirty days of a change in administrator or nurse executive.

8. The department will review all reported allegations of resident abuse, neglect, and misappropriation of resident property by an individual used in a nursing facility to provide resident services. If there is reason to believe, either through oral or written evidence, that an individual used by a nursing facility to provide services to residents could have abused or neglected or misappropriated a resident's property, the department will investigate the allegation or refer the allegation to the appropriate licensure authority for followup.

9. If the department makes a preliminary determination that an individual used by a nursing facility to provide services to residents abused or neglected or misappropriated resident property, the individual will be notified and provided the same appeal and review rights provided to nurse aides on the registry identified in sections 33-07-06-10 and 33-07-06-11.

10. The department will maintain a registry of individuals used by the nursing facility to provide services to residents that the department has investigated and validated findings of resident abuse, neglect, or misappropriation of resident property.

History: Effective July 1, 1996; amended effective July 1, 2004.

General Authority: NDCC 23-01-03, 28-32-02

Law Implemented: NDCC 23-16-01, 28-32-02