

310:675-3-1. License required [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-3-1.1. Application for licensure

- (a) No person or entity shall operate a facility without first obtaining a license.
- (b) The applicant shall file a licensure application in a timely manner, on the forms provided by the Department, with a check for the filing fee payable to the Oklahoma State Department of Health. The filing fee is set by statute, and currently is calculated as Ten Dollars (\$10.00) per licensed bed.
- (c) The facility owner shall be the applicant for the license, unless a receiver has been appointed. If there is a receiver, the receiver shall be the applicant.
- (d) If the facility is leased, then the person or entity to whom the facility is leased shall be the applicant. If the lessee does not assume all rights to the facility and the lessor reserves some participatory rights in the operation of the facility, then both entities shall make joint application for the license.
- (e) The applicant for license shall disclose the name, address, and tax identification number of a person or entity who has the legal duties of filing employment tax returns and paying employment taxes with respect to staff required to meet the needs of facility residents, including but not limited to administrators, nurses, nurse aides, certified medication aides, dieticians, nutritionists, food service staff, qualified mental retardation professionals, and activities, social services, maintenance and housekeeping personnel.
- (f) An application is not considered to be filed unless it is accompanied by the application fee. The application fee, however, shall not be required from a receiver or temporary manager appointed by, or at the request of, the Department.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93; Amended at 11 Ok Reg 3193, eff 6-27-94; Amended at 13 Ok Reg 2511, eff 6-27-96; Amended at 21 Ok Reg 2805, eff 7-12-04; Amended at 23 Ok Reg 3167, eff 7-26-06 (emergency); Amended at 24 Ok Reg 2043, eff 6-25-07; Amended at 26 Ok Reg 2059, eff 6-25-09]

310:675-3-2. Application for licensure/relicensure [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-3-2.1. Deadlines for filing

The license application shall be filed in accordance with the following deadlines.

- (1) The application for an initial license of a new facility shall be filed at least thirty days before beginning operations.
- (2) The application for an initial license, following a transfer of ownership or operation, shall be filed at least thirty days before the final transfer. In the case of the appointment of a receiver as operator, this thirty day advance filing requirement may be waived if the Commissioner finds that an emergency exists which threatens the welfare of the facility residents. If an emergency is found to exist, the receiver shall file the license application before beginning operation of the facility.
- (3) The application for renewal of license of an existing facility, with no transfer of ownership or operation, shall be filed by the renewal date specified on the existing license.
- (4) An application for a suspended license, with no transfer of ownership or operation, shall be filed within thirty (30) days of relocation of all residents or the date the facility ceases operation.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93; Amended at 13 Ok Reg 2511, eff 6-27-96; Amended at 20 Ok Reg 2399, eff 7-11-03]

310:675-3-3. Probationary and conditional licenses [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-3-3.1. Where to file

(a) Each initial, renewal or suspended license application, and each Notice of Change requesting an increase in beds, and the applicable license fee shall be delivered or sent to the Department at the address specified on the application or notice form. The effective date of filing shall be the date the application or notice and any required fee are received. No initial or renewal license or increase in licensed beds shall bear an effective date of issuance that is earlier than the effective date of filing.

(b) The completed application forms and the license fee shall not be given to Department personnel at the facility site.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93; Amended at 20 Ok Reg 2399, eff 7-11-03]

310:675-3-4. Denial of license

The Department's consideration of financial insufficiency as a reason for denial of a license pursuant to 63 O.S. Section 1-1906(C)(4), may include, but is not limited to, the following bases:

(1) The applicant or any person or entity disclosed pursuant to 310:675-3-1.1(e) is not current with filing and payment requirements for state and/or federal taxes;

(2) The State of Oklahoma has filed a tax warrant or warrants against the applicant or any person or entity disclosed pursuant to 310:675-3-1.1(e); or

(3) The Internal Revenue Service has filed a notice of federal tax lien against the applicant or any person or entity disclosed pursuant to 310:675-3-1.1(e).

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93; Added at 21 Ok Reg 2805, eff 7-12-04]

310:675-3-4.1. Forms

The applicant for a license shall file application forms as follows:

(1) For an initial license of a new facility, or for an existing facility following a transfer of ownership or operation, the applicant shall file these forms: License Application; Disclosure Statement of Owner, Lessee and Manager, with Detail Attachment and Affirmation Attachment; the Staffing Projection and Professional Certification; and the Certification of Tax Liens and Timely Payment of Taxes.

(2) For renewal or suspension of a current license, the applicant shall file the License Application form, and the Certification of Tax Liens and Timely Payment of Taxes. The application forms shall provide for the facility to file an abbreviated report if no change has been made since the time of the last application.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93; Amended at 20 Ok Reg 2399, eff 7-11-03; Amended at 21 Ok Reg 2805, eff 7-12-04; Amended at 23 Ok Reg 3167, eff 7-26-06 (emergency); Amended at 24 Ok Reg 2043, eff 6-25-07]

310:675-3-5. Suspension/revocation of license

(a) The period for an extension granted pursuant to 63 O.S. Supp. 2002 Section 1-1906(H)(2) shall not exceed three (3) years.

(b) During the period of suspension, the licensee shall file a Periodic Report for Suspended License that demonstrates the facility's progress towards reopening the facility or the extenuating or unusual circumstances for requesting the extension of the suspended license, in the form of, but

not limited to: contract for sale, contract with real estate agent or builder, or a pending Certificate of Need application.

(c) The facility shall file periodic reports at least once every six months. The Department shall send a notice to each facility's contact, at least thirty (30) days prior to the due date of the periodic report.

(d) The Department's consideration of financial insufficiency as a reason for suspension or revocation of a license pursuant to 63 O.S. Section 1-1906(E)(4), may include, but is not limited to, the following bases:

(1) The applicant or any person or entity disclosed pursuant to 310:675-3-1.1(e) is not current with filing and payment requirements for state and/or federal taxes;

(2) The State of Oklahoma has filed a tax warrant or warrants against the applicant or any person or entity disclosed pursuant to 310:675-3-1.1(e); or

(3) The Internal Revenue Service has filed a notice of federal tax lien against the applicant or any person or entity disclosed pursuant to 310:675-3-1.1(e).

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93; Amended at 20 Ok Reg 2399, eff 7-11-03; Amended at 21 Ok Reg 2805, eff 7-12-04; Amended at 26 Ok Reg 2059, eff 6-25-09]

310:675-3-5.1. Description of forms

(a) The forms used to apply for a facility license are the following.

(1) The License Application for a Nursing or Specialized Facility (Form 953-A) requires: identification of the type of license; the name and address of the facility; the administrator's name; the number and type of beds; the applicant's name; confirmation of changes in the owner, lessee, manager or any person or entity disclosed pursuant to 310:675-3-1.1(e); a zoning statement for new facilities; and an oath affirming the truth, correctness and completeness of the information provided.

(2) The Disclosure Statement of Owner, Lessee and Manager for a Nursing or Specialized Facility (Form 953-B) requires: the names and types of legal entities for the owner, lessee and manager; name, address and tax identification number for any person or entity disclosed pursuant to 310:675-3-1.1(e); and an oath affirming the truth, correctness and completeness of the information provided.

(3) The Detail Attachment (Form 953-C) supplements the Disclosure Statement (Form 953-B) and requires the names and addresses for the following as applicable:

(A) All shareholders owning 5% or more of a corporate entity and all officers of a corporate entity;

(B) All partners of a general partnership;

(C) All general partners and all limited partners that own 5% or more of a limited partnership;

(D) All members that own 5% or more of a limited liability company and all managers of a limited liability company;

(E) All beneficiaries that hold a 5% or more beneficial interest in a trust and all trustees of the trust;

(F) All persons or entities that own a 5% or more interest in a joint venture;

(G) All persons or entities that own a 5% or more interest in an association;

(H) The owners holding a 5% or more interest of any other type of legal entity; and

(I) Any other person holding at least a five percent (5%) interest in any entity which owns, operates, or manages the facility.

(J) As a substitute to submitting a Disclosure Statement and Detail Attachment, if the owner, lessee and/or manager is an entity that is publicly traded and is required to file periodic reports under the Securities and Exchange Act of 1934, or is a wholly owned subsidiary of such a publicly held company, the applicant may submit the applicable portions of the most recent annual and

quarterly reports required by the Securities and Exchange Commission (SEC). The applicant shall include an index reflecting where each item of information required to be disclosed pursuant to the Disclosure Statement and Detail Attachment may be located in the SEC filings. Submission of the complete SEC filing is not required. Only those portions applicable to the Disclosure Statement and Detail Attachment are to be submitted.

(K) The required disclosure shall also be made by all persons or entities with an ownership interest in any entity required to be disclosed in paragraphs (A) through (I) of this section that is equal to a 5% or more indirect ownership interest in the owner, lessee and/or manager. The disclosure shall be made at each level of the organization to the extent required by this subsection.

(L) For purposes of subsection (K), the percentage of indirect ownership interest in the owner, lessee and/or manager is determined by multiplying the percentages of ownership in each entity. For example, if A owns 10 % of the stock in a corporation that owns 80 % of the applicant for license, A's interest equates to an 8 % indirect ownership interest in the applicant and must be reported. Conversely, if B owns 80 percent of the stock of a corporation that owns a 5% interest of the stock of the applicant, B's interest equates to a 4% indirect ownership interest in the applicant and need not be reported.

(4) The Affirmation Attachment (Form 953-D) supplements the Disclosure Statement (Form 953-B) and requires the following: the names and addresses of individuals, members, officers and/or registered agents required to be disclosed for the applicant pursuant to 310:675-3-5.1(a)(3); and an affirmation from each of the above concerning their age, character and health.

(5) The Staffing Projection and Professional Certification for a Nursing or Specialized Facility (Form 953-E) requires: a projected staffing pattern; and a certification from the director of nursing, the physician on call for medical emergencies, and the pharmacist providing consultation and emergency pharmacy services.

(6) The Periodic Report for Suspended License (Form 953-F) requires: the name and address of the facility; the applicant's name and address, contact person and address; report of progress in reopening the facility; request for extension based on extenuating circumstances; and an oath affirming the truth, correctness and completeness of the information provided.

(b) The Notice of Change requests information on the name and address of the facility; the administrator; the number and type of beds; the applicant; confirmation of changes in the owner, lessee or manager; and any change in disclosure of persons or entities pursuant 310:675-3-1.1(e).

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93; Amended at 20 Ok Reg 2399, eff 7-11-03; Amended at 21 Ok Reg 2805, eff 7-12-04; Amended at 21 Ok Reg 2454, eff 7-11-05; Amended at 23 Ok Reg 3167, eff 7-26-06 (emergency); Amended at 24 Ok Reg 2043, eff 6-25-07; Amended at 26 Ok Reg 2059, eff 6-25-09]

310:675-3-6. Transfer of ownership [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-3-7. Certificate of approval [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-3-8. Notice of change

(a) If changes occur so that information previously submitted in a facility's license application is no longer correct, the facility shall notify the Department. Notice is required of changes to the following information:

(1) Facility identification including facility business name, mailing address, telephone number or facsimile number;

- (2) Changes in licensed bed capacity, including proposed increases;
 - (3) The administrator;
 - (4) Owner, lessee or manager disclosure or detail information that does not otherwise necessitate an initial license;
 - (5) Disclosure of persons or entities required to be disclosed pursuant 310:675-3-1.1(e); and
- (b) The facility shall file the Notice of Change form with the Department on or before the effective date of the change, with the following exceptions.
- (1) When a change is unexpected or beyond the control of the facility, the facility shall provide notice to the Department within five (5) working days after the change.
 - (2) For an increase in licensed bed capacity, the facility shall file the notice of change prior to the requested license amendment date. The notice of change shall be accompanied by the \$10 per-bed license fee pursuant to 63 O.S. Section 1-1905(A), prorated by the number of beds to be added and the proportion of time remaining on the license until expiration. Prior to occupying additional beds, the facility shall obtain an amended license from the Department.
- (c) Following receipt of information that an applicant or any person or entity disclosed pursuant 310:675-3-1.1(e) is not in compliance with the tax filing, payment or disclosure requirements of 310:675-3-1.1. or 63 O.S. Section 1-1930.1, the Department may require an applicant or licensee to submit proof that the applicant or person or entity disclosed pursuant to 310:675-3-1.1(e) is in compliance with state or federal taxes. Such proof may include a letter from the taxing agency, a file-stamped copy of a return, a receipt for a tax payment, or a tax transcript or account.
- [Source:** Added at 20 Ok Reg 2399, eff 7-11-03; Amended at 21 Ok Reg 2805, eff 7-12-04; Amended at 21 Ok Reg 2454, eff 7-11-05; Amended at 23 Ok Reg 3167, eff 7-26-06 (emergency); Amended at 24 Ok Reg 2043, eff 6-25-07; Amended at 26 Ok Reg 2059, eff 6-25-09