

4658.0025 PROCEDURES FOR LICENSING NURSING HOMES.

Subpart 1. **Initial licensure.** For the purpose of this part, initial licensure applies to newly constructed facilities designed to operate as a nursing home and to other facilities not already licensed as a nursing home. Applicants for initial licensure must complete the license application form supplied by the department. An application for initial licensure must be submitted at least 90 days before the requested date for licensure and must be accompanied by a license fee based upon the formula as provided by Minnesota Statutes, section 144.122.

To be issued a license, an applicant must file with the department a current copy of the architectural and engineering plans and specifications of the facility as prepared and certified by an architect or engineer registered to practice in Minnesota.

If the applicant for licensure is a corporation, it must submit with the application a copy of its articles of incorporation and bylaws. A foreign corporation must also submit a copy of its certificate of authority to do business in Minnesota. The department will issue the initial license as of the date the department determines that the nursing home is in compliance with parts 4655.0090 to 4655.9342, 4658.0010 to 4658.1365, 4660.0090 to 4660.9940, and Minnesota Statutes, sections 144A.01 to 144A.16, unless the applicant requests a later date.

Subp. 2. **Renewed licenses.** An applicant for license renewal must complete the license application form supplied by the department. An application must be submitted at least 60 days before the expiration of the current license and must be accompanied by a license fee based upon the formula as provided by Minnesota Statutes, section 144.122. The department will issue a renewed license if a nursing home continues to satisfy the requirements of parts 4655.0090 to 4655.9342, 4658.0010 to 4658.1365, 4660.0100 to 4660.9940, and Minnesota Statutes, sections 144A.01 to 144A.16.

If the licensee is a corporation, it must submit any amendments to its articles of incorporation or bylaws with the renewal application.

If the renewal application specifies a different licensed capacity from that provided on the current license, the licensee must comply with subpart 6. If the changes are not approved before the current license expires, the renewed license will be issued without reflecting the requested changes.

Subp. 3. **Transfer of interest; notice.** A controlling person, as defined in Minnesota Statutes, section 144A.01, subdivision 4, who transfers a beneficial interest in the nursing home must notify the department, in writing, at least 14 days before the date of the transfer. The written notice must contain the name and address of the transferor, the name and address of the transferee, the nature and amount of the transferred interests, and the date of the transfer.

Subp. 4. **Transfer of interest; expiration of license.** A transfer of a beneficial interest will result in the expiration of the nursing home's license:

A. if the transferred beneficial interest exceeds ten percent of the total beneficial interest in the licensee, in the structure in which the nursing home is located, or in the land upon which the nursing home is located, and if, as the result of the transfer, the transferee then possesses a beneficial interest in excess of 50 percent of the total beneficial interest in the licensee, in the structure in which the nursing home is located, or in the land upon which the nursing home is located; or

B. if the transferred beneficial interest exceeds 50 percent of the total beneficial interest in the licensee, the structure in which the nursing home is located, or in the land upon which the nursing home is located.

Under either of these conditions, the nursing home license expires at the time of relicensure, 90 days after the date of the transfer, or 90 days after the date when notice of transfer is received, whichever date is later. If the current license expires before the end of the 90-day period, the licensee must apply for a renewed license in accordance with subpart 2. The department must notify the licensee by certified mail at least 60 days before the license expires.

Subp. 5. **Transfer of interest; relicensure.** A controlling person may apply for relicensure by submitting the license application form at least 60 days before the license expiration date. Application for relicensure must be accompanied by a license fee based upon the formula as provided by Minnesota Statutes, section 144.122. Payment of any outstanding penalty assessments must be submitted before the application for relicensure may be acted upon by the department. If the applicant for relicensure is a corporation, it must submit a copy of its current articles of incorporation and bylaws with the license application. A foreign corporation must also submit a copy of its certificate of authority to do business in Minnesota. The department will relicense the nursing home as of the date the commissioner determines that the prospective licensee complies with parts 4655.0090 to 4655.9342, 4658.0010 to 4658.1365, 4660.0100 to 4660.9940, and Minnesota Statutes, sections 144A.01 to 144A.16, unless the applicant requests a later date. The former licensee remains responsible for the operation of the nursing home until the nursing home is relicensed.

Subp. 6. **Amendment to the license.** If the nursing home requests a change in its licensed capacity or in its license classification, it must submit the request on the application for amendments to the license. This application must be submitted at least 30 days before the requested date of change and if an increase in the number of licensed beds is requested, accompanied by a fee based upon the formula as provided by Minnesota Statutes, section 144.122. The department will amend the license as of the date the department determines that the nursing home is in compliance with parts 4655.0090 to 4655.9342, 4658.0010 to

4658.1365, 4600.0100 to 4660.9940, and Minnesota Statutes, sections 144A.01 to 144A.16, unless a later date is requested by the licensee. The amendment to a license is effective for the remainder of the nursing home's licensure year.

Subp. 7. **Issuing conditions or limitations on the license.** The department must attach to the license any conditions or limitations necessary according to subpart 8 to assure compliance with the laws and rules governing the operation of the nursing home or to protect the health, treatment, safety, comfort, and well-being of the nursing home residents. A condition or limitation may be attached to a license at any time.

Subp. 8. **Reasons for conditions or limitations.** In deciding to condition or limit a license the department must consider:

A. the nature and number of correction orders or penalty assessments issued to the nursing home or to other nursing homes having some or all of the same controlling persons;

B. the permitting, aiding, or abetting of the commission of any illegal act in the nursing home by any of the controlling persons or employees of the nursing home;

C. the performance of any acts contrary to the welfare of the residents in a nursing home by a controlling person or employee;

D. the condition of the physical plant or physical environment;

E. the existence of any outstanding variances or waivers; or

F. the number or types of residents the nursing home is able to provide for.

Subp. 9. **Types of conditions or limitations.** The department must impose one or more of the following conditions or limitations for reasons determined under subpart 8:

A. restrictions on the number or types of residents to be admitted or permitted to remain in the nursing home;

B. restrictions on the inclusion of specified individuals as controlling persons or managerial employees; or

C. imposition of schedules for the completion of specified activities.

Subp. 10. **Statement of conditions or limitations.** The department must notify the applicant or licensee, in writing, of its decision to issue a conditional or limited license. The department must inform the applicant or licensee of the reasons for the condition or limitation and of the right to appeal.

Unless otherwise specified, a condition or limitation remains valid as long as the licensee of the nursing home remains unchanged or as long as the reason for the condition or limitation exists. The licensee must notify the department when the reasons for the

condition or limitation no longer exist. If the department determines that the condition or limitation is no longer required, it will be removed from the license.

The existence of a condition or limitation must be noted on the face of the license. If the condition or limitation is not fully stated on the license, the department's licensure letter containing the full text of the condition or limitation must be posted alongside the license in an accessible and visible location.

Subp. 11. **Effect of a condition or limitation.** A condition or limitation has the force of law. If a licensee fails to comply with a condition or limitation, the department may issue a correction order or assess a fine or it may suspend, revoke, or refuse to renew the license in accordance with Minnesota Statutes, section 144A.11.

If the department assesses a fine, the fine is \$250. The fine accrues on a daily basis according to Minnesota Statutes, section 144A.10.

Subp. 12. **Appeal procedure.** The applicant or licensee may contest the issuance of a conditional or limited license by requesting a contested case proceeding under the Administrative Procedure Act, Minnesota Statutes, sections 14.57 to 14.69, within 15 days after receiving the notification described in subpart 10. The request for a hearing must set out in detail the reasons why the applicant contends that a conditional or limited license should not be issued.

Subp. 13. **License application forms.** The department will furnish the applicant or the licensee with the necessary forms to obtain initial or renewed licensure or to request relicensure of the nursing home after a transfer of interest. The license forms must require that the information described in subparts 14 to 16 be provided.

Subp. 14. **General information.** General information means:

- A. the name, address, and telephone number of the nursing home;
- B. the name of the county in which the nursing home is located;
- C. the legal property description of the land upon which the nursing home is located;
- D. the licensed bed capacity;
- E. the designation of the classification of ownership, for example, state, county, city, city and county, hospital district, federal, corporation, nonprofit corporation, partnership, sole proprietorship, or other entity;
- F. the name and address of the controlling person or managerial employee who will be responsible for communicating with the commissioner of health on all matters relating to the nursing home license and on whom personal service of all notices and orders will be served; and

G. the location and square footage of the floor space constituting the facility.

Subp. 15. **Disclosure of controlling persons.** According to Minnesota Statutes, section 144A.03, the nursing home license application must identify the name and address of all controlling persons of the nursing home, as defined in Minnesota Statutes, section 144A.01, subdivision 4.

Subp. 16. **Disclosure of managerial employees.** A nursing home license application must identify the name and address of all administrators, assistant administrators, directors of nursing, medical directors, and all other managerial employees, as defined in Minnesota Statutes, section 144A.01, subdivision 8, and indicate their previous work experience in nursing homes during the past two years.

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