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HOUSE BILL NO. 1063

Offered January 10, 2024

Prefiled January 10, 2024

A *BILL to amend the Code of Virginia by adding a section numbered 32.1-129.1, relating to nursing homes; application requirements.*

Patron—Willett

Referred to Committee on Health and Human Services

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 32.1-129.1 as follows:

§ 32.1-129.1. Nursing home application requirements.

A. *All applicants for a nursing home license, whether new, renewal, or change of ownership, shall complete and submit a Department-approved application form with the required fee. For renewals, the application may be waived if there are no changes to the information outlined herein. This application, all required accompanying documentation, and the required fee shall be submitted annually prior to the licensure renewal deadline.*

B. *The licensure application form shall require the applicant to provide the following:*

1. *The names and contact information of all persons with any ownership interest, direct or indirect, in the nursing home, and a breakdown of all ownership interests by individual or entity and the percentage of interest;*

2. *The names and contact information for any individuals or entities with any ownership interest in the parent organization or any individuals or entities with any ownership interest in the nursing home;*

3. *The names and contact information of any subsidiary organization or related party to the individuals or entities with any ownership interest in the nursing home or the parent organization of the nursing home;*

4. *An organizational chart reflecting the relationships between the applicant, all persons with any ownership interest in the nursing home, parent or subsidiary organizations of the nursing home, and related parties;*

5. *A list of every nursing home in any state, the District of Columbia, or any territory in which the person has or had any percentage of ownership, management, or real property interest of that nursing home;*

6. *Information related to experience, qualifications, and past performance, dating back for a minimum of three years, of all persons with any ownership interest in the nursing home, all parent or subsidiary organizations of the nursing home, or related parties in the Commonwealth and other jurisdictions in which the person has operated or had ownership of a nursing home;*

7. *The name, address, email address, phone number, and license number of the nursing home administrator;*

8. *The names, addresses, email addresses, and phone numbers of any persons that have or will have a direct or indirect interest in the management of the nursing home or the provision of services at the nursing home;*

9. *Information on any pending, litigated, or settled legal proceedings for all persons with any ownership interest in the nursing home, parent organizations or subsidiary organizations of the nursing home, and all related parties in the Commonwealth and in any other jurisdiction in which the person operated or had ownership of a nursing home;*

10. *Information on the real property where the nursing home is or will be located, including any owner, common owner, tenant, or sublessee;*

11. *Information on the owner of a whole or part interest in any mortgage, deed, trust, note, or other obligation secured in whole or part by (i) the equipment used in the nursing home, (ii) the real property where the nursing home is located, or (iii) the building where the nursing home is located;*

12. *Information on the financial capability of the applicant to successfully operate a nursing home as defined by the Department;*

13. *Information on any financial failures involving any persons identified in the application that resulted in a bankruptcy, receivership, assignment, debt consolidation or restructuring, mortgage foreclosure, corporate integrity agreement, or sale or closure of a nursing home, the land it sits on, or the building in which the nursing home is located; and*

14. *Any additional information the Department may request and require applicants to provide, including information responsive to inquiries arising from public comment on the new license or change of ownership licensure application.*

C. *In addition to the information required in subsection B, a person seeking to operate or assume*

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59 ownership of a nursing home shall provide the following:

60 1. A proposed staffing and hiring plan, which shall include the management and oversight of staff and the
61 structure of the nursing home's governing body and its participants;

62 2. A proposed training plan for staff;

63 3. A proposed emergency, pandemic, and disaster preparedness plan that meets the requirements of this
64 section and 42 CFR § 483.73(a);

65 4. Proposed standard admissions and discharge agreements; and

66 5. A detailed budget for three years of operations, prepared in accordance with generally accepted
67 accounting principles, and evidence of access to sufficient capital needed to operate the nursing home in
68 accordance with the budget and the facility assessment, as defined in 42 CFR § 483.70(e).

69 D. The Department shall publish on its website written notice of all applications for nursing home
70 licensure, whether for a new license, a license renewal or a change of ownership, which shall include a copy
71 of the application form completed by the applicant and information about the public input and comment
72 process.

73 E. Interested members of the public, including residents, Long-Term Care Ombudsmen, resident
74 representatives, or other stakeholders, may submit comments on an applicant's application for nursing home
75 licensure during a designated 30-day public comment window. Commenters may request a public hearing on
76 an applicant's suitability for nursing home licensure. The Department may hold a public hearing upon any
77 request but shall hold a public hearing upon receipt of requests from 10 or more commenters.

78 F. The Department shall conduct an evaluation of the application, which shall include consideration of
79 the application form and documents submitted as well as consideration of any public comment or publicly
80 submitted evidence that the Department has received in response to the public notice after a 30-day public
81 comment period. The Department shall consider the following in determining whether to approve or deny an
82 application:

83 1. The applicant's past performance and that of all owners and parent organizations related to owning or
84 operating a nursing home in the Commonwealth or other jurisdictions;

85 2. The demonstrated financial and organizational capacity and capability to successfully perform the
86 requirements of operating a nursing home based on the information provided with the application; and

87 3. The demonstrated history and experience with regulatory compliance, including evidence of consistent
88 performance in delivering quality care.

89 G. The following circumstances shall be grounds for denial of licensure to operate a nursing home:

90 1. A nursing home that is operated by a person who (i) owns a five percent or greater interest in the
91 nursing home, (ii) acts as a corporate officer of the nursing home, or (iii) serves as a member of the board of
92 directors has been the subject of proceedings that resulted in the suspension, denial, or revocation of the
93 license or renewal license of the nursing home or has been the subject of proceedings that resulted in the
94 denial, cancellation, or revocation of the Medicare or Medicaid certification of the nursing home;

95 2. The applicant has permitted, assisted, or encouraged anyone in the commission of any illegal act
96 against a nursing home resident; or

97 3. A federal, state, or local law-enforcement entity has filed an action in any court concerning conditions
98 in any health care facility for which the applicant was licensed, and such lawsuit resulted in an order or
99 judgment granting damages or any form of equitable relief, including an injunction or declaratory judgment,
100 against the applicant or licensee.