

59 the Commissioner and pay the applicable fee for such application as determined by the Board. The completed
60 application shall be submitted no later than 45 days before the proposed effective date of the change of
61 operator if such change of operator does not entail the relocation of residents or 90 days before the proposed
62 effective date of the change of operator if such change of operator entails the relocation of residents. The
63 Commissioner may waive the time period requirements of this subdivision if he determines there is an
64 emergency. A change of operator license application shall include:

65 a. Disclosure of all direct and indirect owners owning at least five percent of each of the following:

66 (1) The entering operator, if the entering operator is an entity;

67 (2) The owner of the building or buildings in which the nursing home is housed if such owner is not the
68 entering operator;

69 (3) The owner of the legal rights associated with the ownership and operation of the nursing home beds if
70 such owner is not the entering operator; and

71 (4) Each related party that will provide services to the nursing home through contracts with any person
72 identified in this subdivision 1 a.

73 b. Disclosure of whether a person identified in subdivision a has or had a direct or indirect ownership or
74 operational interest in a current or previously licensed nursing home in the Commonwealth or another state,
75 including disclosure of whether any of the following occurred with respect to any such nursing home within
76 the five years immediately preceding the change of operator license application:

77 (1) Closure of the nursing home;

78 (2) Bankruptcy proceedings;

79 (3) Receivership proceedings;

80 (4) License suspension, denial, or revocation;

81 (5) Injunction proceedings initiated by a regulatory agency;

82 (6) The nursing home was listed in table A, B, or D of the Special Focus Facility list published by the
83 Centers for Medicare and Medicaid Services; or

84 (7) A civil or criminal action was filed against the nursing home by a state or federal entity.

85 c. Any additional information that the Commissioner considers necessary to determine the ownership,
86 operation, management, and control of the nursing home.

87 2. The entering operator shall submit evidence of a bond or other financial security reasonably
88 acceptable to the Commissioner for an amount not less than the product of the number of licensed beds in the
89 nursing home, as reflected in the application submitted pursuant to subdivision 1, multiplied by \$10,000.
90 Such bond may be supplied by either the entering operator or the property owner of the nursing home. The
91 bond required pursuant to this subdivision shall be waived for applications that demonstrate that the entering
92 operator or a person that directly or indirectly owns at least 50 percent of the entering operator directly or
93 indirectly owns at least 50 percent of the nursing home and its assets.

94 a. The entering operator or property owner shall renew, replace, or maintain the bond or other financial
95 security for five years after the effective date of the change of operator. The aggregate liability of a surety
96 shall not exceed the sum of the bond, which is not cumulative from period to period. If the entering operator
97 or property owner fails to renew, replace, or maintain the bond or other financial security pursuant to this
98 subsection, the Commissioner shall give the operator notice of the deficiency and shall revoke the operator's
99 license 30 days after the issuance of such notice. The entering operator or property owner may release the
100 bond or other financial security five years after the effective date of the change of operator if none of the
101 events described in subdivision b occur.

102 b. The Commissioner may utilize the bond or other financial security required pursuant to this subsection
103 to pay expenses incurred by the Commissioner or any other state entity in relation to any of the following
104 events if such event occurs within the five-year period during which the bond or other financial security is
105 required:

106 (1) Closure of the nursing home;

107 (2) Bankruptcy proceedings;

108 (3) Receivership proceedings;

109 (4) License suspension, denial, or revocation;

110 (5) An additional change of operator, unless the new applicant submits a bond or other financial security
111 in accordance with the provisions of this subsection; or

112 (6) The nursing home is listed in table A, B, or D of the Special Focus Facility list published by the
113 Centers for Medicare and Medicaid Services.

114 3. The entering operator or an individual who will have operational control of the nursing home has at
115 least five years of experience as (i) an administrator of a nursing home located in the Commonwealth or
116 another state or (ii) an individual with operational control of a nursing home located in the Commonwealth
117 or another state.

118 4. The entering operator attests that he has plans for quality assurance and risk management for the
119 operation of the nursing home.

120 5. The entering operator attests that he has general and professional liability insurance coverage

121 pursuant to the requirements of § 32.1-127.

122 6. The entering operator attests that he has sufficient numbers of qualified staff, by training or by
123 experience, who shall be employed to properly care for the type and number of nursing home residents.

124 C. The Commissioner shall issue a notice of intent to grant a change of operator license to the entering
125 operator upon a determination that all the requirements of subsection B have been met.

126 D. Upon issuance of a change of operator license, the Department of Medical Assistance Services shall
127 complete a provider screening pursuant to the requirements of 42 U.S.C. § 1395cc(j) for any operation
128 intending to participate in Medicare or Medicaid.

129 E. Nothing in this section shall be construed to waive or replace any requirements for nursing home
130 licensure established by the provisions of this article and the regulations of the Board.

131 F. The Commissioner shall deny a change of operator license application if:

132 1. The requirements established by this section are not satisfied;

133 2. The entering operator or a person identified in subdivision B 1 a that directly or indirectly has 25
134 percent or more ownership of the entering operator meets both of the following criteria:

135 a. The entering operator or the person has or had (i) 50 percent or more direct or indirect ownership or
136 (ii) operational control, either alone or together with one or more persons, of a currently or previously
137 licensed nursing home in the Commonwealth or another state.

138 b. Any of the following occurred with respect to the previously licensed nursing home described in this
139 subdivision 2:

140 (1) Involuntary closure of the nursing home by a regulatory agency or voluntary closure in response to
141 licensure or certification action;

142 (2) Bankruptcy proceedings that are not dismissed within 60 days;

143 (3) Receivership proceedings that are not dismissed within 60 days; or

144 (4) License suspension, denial, or revocation for failure to comply with operating standards.

145 3. A change of 25 percent or more of the property ownership interest in a nursing home occurs in
146 connection with the change of an operator and the person that acquired the property ownership interest
147 meets both of the following criteria:

148 a. The entering operator or the person has or had (i) 50 percent or more direct or indirect ownership or
149 (ii) operational control, either alone or together with one or more persons, of a currently or previously
150 licensed nursing home in the Commonwealth or another state.

151 b. Any of the following occurred with respect to the previously licensed nursing home described in this
152 subdivision 3:

153 (1) Involuntary closure of the nursing home by a regulatory agency or voluntary closure in response to
154 licensure or certification action;

155 (2) Bankruptcy proceedings that are not dismissed within 60 days;

156 (3) Receivership proceedings that are not dismissed within 60 days; or

157 (4) License suspension, denial, or revocation for failure to comply with operating standards.

158 G. An entering operator may appeal the denial of a change of operator license application in accordance
159 with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

160 H. An entering operator shall:

161 1. Notify the Commissioner immediately upon discovery of any error, omission, or change of information
162 in a change of operator license application.

163 2. Notify the Commissioner within 30 days of any change in the information or documentation required by
164 this section that occurs after the effective date of the change of operator.

165 3. Truthfully supply any additional information or documentation requested by the Commissioner.

166 4. Not complete the change of operator until the Commissioner issues to the entering operator notice of
167 intent to grant a change of operator license in accordance with subsection C. The entering operator shall
168 submit a final document indicating completion of a change of operator transaction within five days of such
169 transaction.

170 Any entering operator that fails to notify the Commissioner or supply additional information or
171 documentation in accordance with the requirements of this subsection shall be subject to a civil penalty of
172 \$2,000. Such penalty shall be collected by the Commissioner and the proceeds shall be deposited into the
173 general fund.

174 I. The Commissioner shall investigate any allegation that a change of operator has occurred and the
175 entering operator failed to submit an application in accordance with this section or an application was filed
176 but the information was fraudulent. Any person that effects a change of operator and fails to submit an
177 application in accordance with this section, or that applies for a change of operator license and provides
178 fraudulent information, shall be subject to a civil penalty of \$2,000 for each day after the date that such
179 change of operator transaction occurs. Such penalty shall be collected by the Commissioner and the
180 proceeds shall be deposited into the general fund.

181 If an entering operator subject to a civil penalty pursuant to this section fails to submit an application or
182 new application in accordance with this section within 60 days of the Commissioner becoming aware of the

- 183 *change of operator, the Commissioner shall begin the process of revoking the nursing home license pursuant*
184 *to § 32.1-135.*
- 185 **2. That the Board of Health shall promulgate regulations to implement the provisions of this act. The**
186 **initial adoption of regulations by the Board pursuant to this act shall be exempt from the requirements**
187 **of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).**