

Article - Human Services

§10-411.

(a) A provider may not enter into a continuing care agreement until the Department issues a preliminary certificate of registration.

(b) An application for a preliminary certificate of registration shall be filed in a form satisfactory to the Department.

(c) An application shall include at least the following information:

(1) the name and address of the facility and the name and address of any affiliate, parent, or subsidiary;

(2) the organizational structure and management of the provider, including:

(i) for a corporation or limited liability company, its name, the state in which it is incorporated or formed, and the name of the chief executive officer;

(ii) for a partnership, the names of the general partners, the state governing its formation, and the name of the primary individual responsible for managing it;

(iii) for an unincorporated association, the names of the members, the state governing its activities, and the name of the primary individual responsible for managing it;

(iv) for a partnership that has a corporation or limited liability company as one or more of its general partners, the name of each corporation or limited liability company, the state in which it is incorporated or formed, and the name of the chief executive officer;

(v) for a trust, the name of the trustee, the names of the owners of beneficial interests in the trust, the state governing it, and the name of the primary individual responsible for overseeing its activities;

(vi) the name and occupation of each officer, director, trustee, managing or general partner, and each person with a 10% or greater financial equity or beneficial interest in the provider and a description of the person's financial interest in or occupation with the provider;

(vii) the name and address of any entity in which a person identified in item (vi) of this paragraph has a 10% or greater financial interest and that is anticipated to provide goods, premises, or services with a value of \$10,000 or more to the facility or provider in a fiscal year and a description of the goods, premises, or services and their anticipated cost to the facility or provider, which need not include salary, wage, or benefit information of employees of the provider; and

(viii) a statement whether the provider is qualified, or intends to qualify, as a tax exempt organization under the Internal Revenue Code;

(3) a copy of the corporate charter, partnership agreement, articles of association, membership agreement, trust agreement, or similar instrument or agreement governing the legal organization of the provider;

(4) (i) a certified financial statement of the provider for as many of the most recent fiscal years, not exceeding 3 years, for which certified financial statements are obtainable under generally accepted accounting principles; and

(ii) if the provider's fiscal year ended more than 90 days before the date the application is filed, an income statement, which need not be certified, covering the period between the end of the fiscal year and a date not more than 90 days before the date the application is filed;

(5) a statement of any affiliation with a religious, charitable, or other nonprofit organization, the extent of the affiliation, and the extent, if any, to which the affiliate organization will be responsible for the provider's financial and contractual obligations;

(6) a copy of the proposed continuing care agreement;

(7) a copy of any priority admission agreements between the provider and any health care provider for health related services;

(8) a statement of the current fee structure, including escalator or other automatic adjustment provisions;

(9) a statement of the role of any publicly funded benefit or insurance program in the financing of care;

(10) the form and substance of any advertisement, advertising campaign, or other promotional material for the facility that has not been previously submitted to the Department; and

(11) other reasonable and pertinent information that the Department requires.

(d) The Department shall issue a preliminary certificate of registration to a provider if:

(1) the feasibility study has been approved; and

(2) the Department determines that:

(i) the proposed continuing care agreement meets the requirements of §§ 10-444, 10-445, 10-446, and 10-448 of this subtitle;

(ii) all of the financial and organizational materials required to be submitted under subsection (c) of this section have been submitted to the Department; and

(iii) the form and substance of all advertisements, advertising campaigns, and other promotional materials submitted are not deceptive, misleading, or likely to mislead.

(e) If a preliminary certificate of registration is not issued within 6 months after the feasibility study is approved, or a longer time allowed by the Department for good cause shown, the provider shall refund all deposits and stop marketing continuing care under that application.

(f) A provider that plans to advertise before an initial certificate of registration is issued under § 10-412 of this subtitle shall submit to the Department the form and substance of any advertisement, advertising campaign, or other promotional material before it may be used.