

CERTIFICATE OF NEED DISCLOSURE STATEMENT

Instructions

1. Submit this disclosure statement if the project involves a nursing facility, specialized facility, the nursing care component of a continuum of care facility, or a skilled nursing unit requesting approval under the Long Term Care Certificate of Need Act. However, *if the applicant is a publicly held company required to file periodic reports under the Securities and Exchange Act of 1934 or a wholly owned subsidiary of a publicly held company . . . the applicant shall not be required to submit a disclosure statement, but shall submit the most recent annual and quarterly reports required by the Securities and Exchange Commission, which provide information regarding legal proceedings in which the applicant has been involved.*

Supporting Documentation (If the applicant is required to file periodic reports under the Securities and Exchange Act you may link the documents here. This would complete your filings for the disclosure statement.)

*****STOP HERE if this category applies to you*****

2. The applicant for a long-term care facility shall include [OAC 310:4-1-5(2)(a)]
 - a. The person or entity that is or will be the owner, as that term is defined in 63 O.S., §1-1902;
 - b. The person or entity that is or will be the licensee, as that term is defined in 63 O.S., §1-1902;
 - c. The person or entity that is or will be, for longer than six months, the manager as that term is defined in OAC 310: 675-1-2; and
 - d. Any person with a controlling interest as that term is defined in 63 O.S., §1-851.1

3. For the purposes of the disclosure statement use the following statutory definitions [63 O.S. § 1-851.1(8)]:

“Person” means any individual, corporation, industry, firm, partnership, association, venture, trust, institution, federal, state or local governmental instrumentality, agency or body or any other legal entity however organized.

“Person with a controlling interest” means a person who meets any one or more of the following requirements:

- a. Controls fifty percent (50%) or more of the common stock of the corporate entity involved or controls fifty percent (50%) or more of the interest in the partnership involved,
- b. Controls a percentage of stock greater than any other stockholder or equal to the other single largest stockholder or controls a percentage of partnership interest greater than any other partner or equal to the other single largest partnership interest, or
- c. A managing member of a Limited Liability Company (LLC).

I. **Complete Table I** for the applicant and any **person with a controlling interest**. The table supplied with this form may be reproduced if more than one page is needed to list the applicant and all appropriate persons. Under the column headed "Authority" on Table I indicate whether or not each person with controlling interest has authority to adopt or substantially influence governing policies that affect the financial performance or quality of care of the facility for which a Certificate of Need has been applied [OAC 310:4-1-13(d)(2)].

II. **Complete Table II and Table III** for any legal entity in which the applicant holds a debt or equity interest of at least five percent (5%), or which is a parent company or subsidiary of the applicant. If this item does **not** apply, confirm by marking an "X" in the following box [63 O.S., §1:851.1(5)(b)]:

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The applicant holds no debt or equity interest of at least five percent (5%) in another legal entity, and the applicant has no parent or subsidiary company.

III. **Attach a description of the experience and credentials of the applicant**, including any past or present permits, licenses, certifications, or operational authorizations relating to long-term care facility regulation. [63 O.S., §1:851.1(5)(c)]

If this item does not apply, confirm by marking an "X" in the following box:

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The applicant has no experience or credentials relating to long-term care facility regulation

If the individual or entity that is or will be the facility's licensee has **not** established a record of performance in long-term care facility operations in the state of Oklahoma of at least sixty (60) months immediately preceding the filing of the application, then fully describe the credentials and experience of each person with a controlling interest. For each facility listed as proof of experience for a person with controlling interest, indicate whether or not that person had authority to adopt or substantially influence governing policies that affected the financial performance or quality of care of the prior holding or operation. [OAC 310:4-1-7.1] **Title the attachment as Disclosure Item III.**

Does the person(s) with controlling interest have experience or credentials relating to long-term care facility regulation? Please indicate if more or less than 60 months of experience or credentials?

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MORE THAN

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LESS THAN, indicate how many months _____

IV. **Attach a listing and explanation of any administrative, civil or criminal legal actions against the applicant or any person with a controlling interest which resulted in a final agency order or final judgment by a court of record including, but not limited to, final orders or judgments on appeal related to long term care in five (5) years immediately preceding the filing of the application. Such actions shall include, without limitation, any permit denial or any sanction imposed by a state regulatory authority or Centers for Medicare and Medicaid Services. Title the attachment as Disclosure Item IV.** [63 O.S., §1-851.1(5)(d)] If this item does not apply, confirm by marking an "X" in the following box:

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Final agency order or final judgment by a court of record has not been issued against the applicant or any person with a controlling interest.

V. What percentage of the long-term care facility holdings listed in Disclosure Item III had, in the preceding sixty (60) months, a facility license or certification revoked, rescinded, canceled, terminated, involuntarily suspended, or refused renewal; or license or certification relinquished voluntarily in lieu of penalty? [63 O.S., §1-853(D)(2)(a)]

_____ %

The Commissioner shall refuse to issue a certificate of need to any applicant who has had, in ten percent (10%) or more of the applicant's long-term care facility holdings in the preceding sixty (60) months, a facility license or certification revoked, rescinded, canceled, terminated, involuntarily suspended, or refused renewal; or if the license or certification was relinquished voluntarily in lieu of penalty. [63 O.S., §1-853(D)(1)]. The Commissioner shall refuse to issue a certificate of need to any applicant except where the applicant overcomes a presumption against approval with clear and convincing evidence that one of the following circumstances was not due to the action or inaction of the applicant or any person with a controlling interest [63 O.S., §1-853(D)(2)]. Label the submission as Disclosure Item V.

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The applicant had no facility license or certification revoked, rescinded, canceled, terminated, involuntarily suspended, or refused renewal; or license or certification relinquished voluntarily in lieu of penalty.

- VI. Has any nursing facility or specialized facility for persons with Alzheimer's disease or related disorders listed in Disclosure Item III been cited with findings of substandard quality of care or actual harm on the last three (3) consecutive standard or complaint surveys? [63 O.S., § 1-853(D)(2)(b)] [63 O.S., §1-851.1(6)]

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Yes

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No

If "yes," the applicant must submit clear and convincing evidence that the findings were not due to the action or inaction of the applicant or any person with a controlling interest. [63 O.S., §1-853(D)(2)] **Label the submission as Disclosure Item VI.**

- VII. Has any specialized facility for individuals with intellectual or developmental disabilities listed in Disclosure Item III had three or more routine or complaint surveys that resulted in determinations that the facility was out of compliance with two or more Conditions of Participation in the Medicaid program in the preceding thirty-six (36) months where compliance was not achieved within sixty (60) days? [63 O.S., §1-851.1(6)]

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Yes

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No

If "yes," the applicant must submit clear and convincing evidence that the non-compliance was not due to the action or inaction of the applicant or any person with a controlling interest. [63 O.S., §1-853(D)(2)] **Label the submission as Disclosure Item VII.**

- VIII. Has the applicant, in all current and prior ownership, operation and management of long-term care facilities, complied with all lawful orders of suspension, receivership, temporary management, or administrative penalty issued by the State Health Department or by other authorities with similar responsibilities in other states or by the Center for Medicare and Medicaid Services. [63 O.S., §1-853(D)(2)(c)]

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N/A

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Yes

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No

If "no," submit clear and convincing evidence that the failure to comply was not due to the action or inaction of the applicant or any person with a controlling interest. [63 O.S., §1-853(D)(2)] **Label the submission as Disclosure Item VIII.**

- IX. Has the applicant had, in the last thirty-six (36) months, *findings of substandard quality of care or noncompliance with two or more conditions of participation on twenty percent (20%) or more of the surveys conducted in the applicant's long-term care facility holdings or against any long-term care facility operated by a person with a controlling interest during the preceding thirty-six months?* [63 O.S., §1-853(D)(3)(a)]

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Yes

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No

Has the applicant had, in the preceding thirty-six (36) months, *a temporary manager, monitor, or receiver appointed?* [63 O.S., §1- 853(D)(3)(b)]

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Yes

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No

Has the applicant had, in the preceding thirty-six (36) months, *a civil money penalty imposed of Thirty-five Thousand Dollars or more?* [63 O.S., §1-853(D)(3)(c)]

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Yes

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No

- X. If the response to any question in item IX was "yes," respond to the following:

"a listing and explanation of any administrative, civil or criminal legal actions against the applicant or any person with a controlling interest which resulted in a final agency order or final judgment by a court of record including, but not limited to, final orders or judgments on appeal related to long-term care in the five (5) years immediately preceding the filing of the application. Such actions shall include, without limitation, any permit denial or any sanction imposed by a state regulatory authority or the Centers for Medicare and Medicaid Services..." [Title 63 O.S., §1-851.1(5)(d)]

Provide the Department with copies of Survey(s), Plan(s) of Correction and If there was changes to the procedures due to deficient practices throughout their operations. Label the submission as **Disclosure Item X.**

- XI. Attach a listing of all federal or state long-term care agencies outside Oklahoma that have, or have had, regulatory responsibility over the applicant [63 O.S. § 1-851.1(5)(e)]. **Title the attachment as Disclosure Item XI.** If this item does not apply, confirm by marking an “X” in the following box:

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No federal or state long-term care agency has or has had jurisdiction over the applicant.

Attach affirmation or the applicant and for each person with controlling interest.

TABLE I. APPLICANT AND PERSONS WITH CONTROLLING INTERESTS

Identifying Information		Type of Interest					
Full Name Social Security Number Birth Date	Business Address	Applicant	Board	Management	Authority Yes or No	Stockholder Or Partner %	Officer of Entity (List Office)

TABLE II. RELATED LEGAL ENTITIES

Identifying Information		Relationship		
Full Name	Business Address	Applicant's Debt or Equity Interest	Parent	Subsidiary
		%		
		%		
		%		
		%		
		%		
		%		

TABLE III. DISCLOSURE OF EXPERIENCE OR CREDENTIALS RELATING TO LONG TERM CARE FACILITY OPERATIONS

Identifying Information		Operational Experience			
Name of Facility	Address, City, State and Zip Code	Relationship to facility: Owner, Manager, Board, other	Start Date of Operation	End Date of Operation	Authority to adopt or influence governing policies?