

Rulemaking Hearing Rules

Department of Health
Board for Licensing Health Care Facilities

Chapter 1200-08-10
Standards for Ambulatory Surgical Treatment Centers

Chapter 1200-08-32
Standards for End Stage Renal Dialysis Clinics

Chapter 1200-08-34
Standards for Home Care Organizations Providing Professional Support Services

Chapter 1200-08-35
Standards for Outpatient Diagnostic Centers

Amendments

Rule 1200-08-10-.02, Licensing Procedures, is amended by deleting subparagraph (4)(b) in its entirety and substituting instead the following language, and is further amended by adding the following language as new subparagraphs (4)(c) through (4)(f), so that as amended, the new subparagraphs (4)(b) through (4)(f) shall read:

- (4) (b) A change of ownership occurs whenever there is a change in the legal structure by which the facility is owned and operated and any ownership interest of the preceding or succeeding entity changes.
- (4) (c) Transactions constituting a change of ownership include, but are not limited to, the following:
 - 1. Transfer of the facility's legal title;
 - 2. Lease of the facility's operation;
 - 3. Dissolution of any partnership that owns, or owns a controlling interest in, the facility;
 - 4. One partnership is replaced by another through the removal, addition or substitution of a partner;
 - 5. Merger of a facility owner (a corporation) into another corporation where, after the merger, the owner's shares of capital stock are canceled;
 - 6. The consolidation of a corporate facility owner with one or more corporations; or,
 - 7. Transfers between levels of government.
- (4) (d) Transactions which do not constitute a change of ownership include, but are not limited to, the following:

1. Changes in the membership of a corporate board of directors or board of trustees;
 2. Two (2) or more corporations merge and the originally-licensed corporation survives;
 3. Changes in the membership of a non-profit corporation;
 4. Transfers between departments of the same level of government; or,
 5. Corporate stock transfers or sales, even when a controlling interest.
- (4) (e) Management agreements are generally not changes of ownership if the owner continues to retain ultimate authority for the operation of the facility. However, if the ultimate authority is surrendered and transferred from the owner to a new manager, then a change of ownership has occurred.
- (4) (f) Sale/lease-back agreements shall not be treated as changes in ownership if the lease involves the facility's entire real and personal property and if the identity of the leasee, who shall continue the operation, retains the same legal form as the former owner.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-216.

Rule 1200-08-32-.02, Licensing Procedures, is amended by deleting subparagraph (3)(b) in its entirety and substituting instead the following language, and is further amended by adding the following language as new subparagraphs (3)(c) through (3)(f), so that as amended, the new subparagraphs (3)(b) through (3)(f) shall read:

- (3) (b) A change of ownership occurs whenever there is a change in the legal structure by which the facility is owned and operated and any ownership interest of the preceding or succeeding entity changes.
- (3) (c) Transactions constituting a change of ownership include, but are not limited to, the following:
 1. Transfer of the facility's legal title;
 2. Lease of the facility's operation;
 3. Dissolution of any partnership that owns, or owns a controlling interest in, the facility;
 4. One partnership is replaced by another through the removal, addition or substitution of a partner;
 5. Merger of a facility owner (a corporation) into another corporation where, after the merger, the owner's shares of capital stock are canceled;
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Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-216.

The rulemaking hearing rules set out herein were properly filed in the Department of State on the 18th day of July, 2007 and will become effective on the 1st day of October, 2007. (FS 07-09-07; DBID 2606 through 2609)