

LIVING CARE DISCLOSURE ACT (EXCERPT)
Act 440 of 1976

***** 554.808 THIS SECTION IS REPEALED BY ACT 448 OF 2014 EFFECTIVE APRIL 2, 2015 *****

554.808 Application for registration; form; contents of disclosure statement; financial statement; signing and verification of application; type and spacing of contracts; untrue statement or omission of material fact; notice of filing; order of registration or rejection; notice of deficiencies.

Sec. 8. (1) A facility shall file an application for registration on a form prescribed by the bureau and shall include with the application 3 copies of the proposed disclosure statement which statement shall contain the following:

(a) The name and address of the facility and the name and address of an affiliated parent or subsidiary corporation or partnership.

(b) Information concerning incorporation as prescribed by the bureau.

(c) A statement of whether or not the facility of an affiliate, parent, or subsidiary is a religious, nonprofit, or proprietary organization.

(d) Information concerning the identity and experience of persons affiliated with the facility as the bureau shall prescribe.

(e) A statement of whether a person identified in the application for registration:

(i) Has been convicted of a felony or pleaded nolo contendere to a felony charge, or been held liable or enjoined in a civil action by final judgment if the felony or civil action involved fraud, embezzlement, fraudulent conversion, or misappropriation of property.

(ii) Is subject to a currently effective injunctive or restrictive order or federal or state administrative order relating to business activity or health care as a result of an action brought by a public agency or department, including, without limitation, actions affecting a license to operate a foster care facility, nursing home, retirement home, or home for the aged. The statement shall set forth the court or agency, date of conviction or judgment, the penalty imposed or damages assessed, or the date, nature, and issuer of the order.

(f) Financial information, updated at least annually, including the following:

(i) A summary balance sheet.

(ii) A narrative explaining material facts relating to the balance sheet.

(iii) A statement of use of proceeds.

(iv) A pro forma balance sheet where the bureau considers it appropriate.

(g) A feasibility study unless waived by the bureau.

(h) The level of participation in medicare or medicaid programs or both.

(i) A statement of all fees required of members, including a statement of the entrance fee charged, the monthly service charges, and the proposed application of the proceeds of the entrance fee by the facility, and the plan by which the amount of the initial fee is determined if the initial fee is not the same in all cases.

(j) Changes or increases in fees. When a facility changes either the scope of or the rates for care or services regardless of whether the change involves the basic rate or only those services available at additional costs to the resident, except those changes mandated by state or federal assistance programs. The facility shall give advance notice of not less than 60 days to the members before the change may be effective. The clause in the agreement which provides for monthly service fee increases by the facility shall be based upon economic necessity, the reasonable cost of operating the facility, and the cost of care.

(k) The location and description of physical property or properties essential for and proposed to be used or being used in connection with the facility's agreements to furnish care.

(l) A statement describing the services provided and the extent to which medical care is furnished.

(m) A statement describing the health and financial conditions required for a person to continue as a member.

(n) A statement setting forth the conditions upon which the facility may relet a member's room.

(o) A statement of the terms under which a life interest or long-term lease may be canceled by the member or the facility during the first 6 months of residence, and the basis for establishing the amount of refund of the entrance fee.

(p) A statement of the terms under which a life interest or long-term lease may be canceled by the member subsequent to the first 6 months of residency and the basis for establishing the amount of refund of the entrance fee.

(q) A statement describing the circumstances under which the member will be permitted to remain in the facility in the event of possible financial difficulties of the member.

(r) A statement of the fees that will be charged if the resident marries while at the facility, and a statement of terms concerning the entry of a spouse to the facility and the consequences if the spouse doesn't meet the requirements for entry.

(s) A statement of the terms under which a life interest or long-term lease is canceled by the death of the member and the basis for establishing the amount of refund, if any, of the entrance fee.

(t) Other material information as required by the bureau.

(u) Other material information as the applicant wishes to include.

(v) A copy of the lease or membership agreement proposed to be used and all amendments to that agreement.

(w) A statement in bold type of not less than 12-point that registration does not constitute approval, recommendation, or indorsement by the bureau.

(2) The application for registration shall include a recent financial statement of the facility together with a statement of material changes in the financial condition of the facility from the date of the statement. The bureau may prescribe the form and content of the financial statements required under this act, the circumstances under which consolidated financial statements shall be filed, and the circumstances under which financial statements shall be audited by independent certified public accountants.

(3) An application for registration shall be signed and verified by the chief operating officer of the facility.

(4) The bureau may require that the applicant set forth in its disclosure statement potential adverse information in designated positions and in a type size acceptable to the bureau.

(5) The bureau shall specify the size of type and spacing in life interest or long-term lease contracts.

(6) A person shall not make an untrue statement of a material fact in an application, notice, or report filed with the bureau under this act, or omit to state in an application, notice, or report a material fact which is required to be stated therein or fail to notify the bureau of a material change as required by this act.

(7) Upon receipt of the application for registration in proper form, the bureau shall issue a notice of filing to the applicant. Within 30 days after the date of the notice of filing, the bureau shall enter an order registering the facility or rejecting the registration with notice of specific deficiencies therein. If an order of rejection is not entered within 30 days after the date of notice of filing, the facility shall be considered registered unless the applicant has consented in writing to a delay.

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

For transfer of securities division of office of finance and insurance regulation from office of finance and insurance regulation to department of licensing and regulatory affairs, see E.R.O. No. 2012-6, compiled at MCL 445.2034.