



## NURSING HOME OWNERSHIP CHANGES

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### ISSUE

Describe the state's process for approving nursing home ownership changes, including how applicants are evaluated and any conditions the state may place on a new nursing home owner.

### SUMMARY

Because of an indefinite moratorium on additional nursing home beds in the state, an individual or entity seeking to operate a nursing home in Connecticut could likely do so only by purchasing an existing home. To do this, the potential nursing home owner must receive prior approval from the Department of Public Health (DPH) and meet the department's licensure requirements. To receive DPH approval, the potential nursing home owner must:

1. submit a written letter of intent to DPH at least 90 days before the transfer in ownership;
2. submit a completed application for licensure;
3. if an out-of-state corporation, submit a certificate of good standing from the secretary of the state in which the corporation is based;
4. submit to a state and federal background check of all its officers and directors;
5. meet in-person with DPH and the Department of Social Services (DSS) to discuss the licensure process and the application information submitted;
6. sign pre-license physical plant and clinical consent orders to assure compliance with the public health code;
7. in most cases, hire a nurse consultant to monitor the home's performance after the ownership transfer; and
8. pass a facility inspection.



Once the new owner's application is approved, the applicant completes the purchase and must send DPH a copy of the closing documents.

State law requires an individual or entity purchasing an existing nursing home to obtain a certificate of need (CON) from DSS when a transfer of ownership occurs before the facility's initial licensure. The current moratorium on new nursing home beds appears to render this statute moot. Additionally, nursing homes are exempt from DPH's CON requirements for health care facilities. Consequently, an individual or entity assuming ownership of an already licensed nursing home would not need to obtain a CON from either department (CGS §§ [17b-354](#) and [19a-638](#)).

If the person has not previously operated a nursing home in Connecticut, DPH can institute an "evaluation period" of up to five years from the time of initial licensure in order to assess the standard of care the home provides. During this evaluation period, the entity cannot acquire any additional nursing homes (CGS § [19a-493a](#)).

## **DPH LICENSURE REQUIREMENTS**

By law, DPH must give its prior approval if a nursing home changes ownership (CGS § [19a-493 \(2\)](#)). An individual or entity seeking to purchase an existing nursing home must submit a letter of intent to DPH at least 90 days before the ownership transfer. In addition, the individual or entity must apply for a nursing home license, submit to a criminal background check of its officers and directors, provide any additional information DPH requests, meet in-person with DPH and DSS, sign pre-license physical plant and clinical consent orders, and meet periodically with DPH after the ownership transfer. The nursing home must also pass a DPH inspection.

### ***DPH Application for Licensure***

A nursing home must be licensed by DPH in order to operate in the state. A nursing home license may include two types of beds: chronic and convalescent care nursing home (CCNH) beds, which require skilled nursing care, and rest homes with nursing supervision (RHNS) beds, which require intermediate care (most nursing homes have only CCNH beds). An entity or other person seeking a nursing home license must provide DPH with the following information:

1. the owner's name and business address and the names of the owner's officers, directors, trustees, partners, people who have a 10% or greater ownership interest, and related information;
2. a description of the relevant business experience of the home's administrator and evidence that the administrator has a state license required by law;

3. affidavits signed by the owner, administrator, assistant administrator, medical director, nursing director, and other specified individuals disclosing any matter in which the person has been convicted of or has pleaded nolo contendere to a felony charge, or has been held liable or enjoined in a civil action, if the felony or civil action involved fraud, embezzlement, fraudulent conversion, or misappropriation of property;
4. affidavits disclosing whether the owner or others listed above have, within the past five years, had any state or federal license or permit suspended or revoked as a result of an action brought by the government related to health care business activity, including actions affecting the operation of a nursing, retirement, or residential care home or other related facilities;
5. a statement as to whether the owner is affiliated with a religious, charitable, or other nonprofit organization;
6. the location and description of the owner's other existing or proposed health care facilities;
7. a statement of the anticipated source and application of the funds used to purchase or construct the home, including an estimate of financing and legal expenses and land, marketing, and other similar costs which the owner expects to incur; and
8. a description of any mortgage loan or any other financing intended to be used to finance the nursing home.

DPH may also require applicants to submit additional information, including the owner's audited and certified financial statements (CGS § [19a-491a](#)).

According to DPH, it also reviews the federal "Nursing Home Compare" website to check how any facilities the applicant owns or operates are rated. (This website is a national, online nursing home report card providing information on every Medicare and Medicaid certified nursing home in each state.)

### ***Additional Requirements for Out-of-State Corporations***

According to DPH, if an out-of-state corporation applies for a nursing home license, it must supply the department with the following information in addition to the licensure requirements above:

1. the contact information of each stakeholder with a 10% or greater ownership interest in the corporation,
2. a certificate of good standing from the secretary of state of the state of incorporation, and

3. a certificate of authority from the Connecticut Secretary of the State to conduct business in Connecticut.

### ***State and National Background Checks***

As part of the licensure application process, all of the applicant's officers and directors must complete state and national criminal background checks, including fingerprints (CGS § [19a-491b](#)).

### ***Meeting with DPH and DSS***

According to DPH, the applicant and his or her executive managers must meet in-person with DPH and DSS to discuss the licensure application. During the meeting, the departments explain the licensure process and any potential concerns or issues with the information the applicant submitted.

The applicant also meets with DSS separately to discuss the Medicaid rate setting process. By law, the DSS commissioner may reset the per diem rate it pays nursing homes for their Medicaid-covered residents if the home changes ownership. However, according to the department it has not done so over the past few years due to the state's oversupply of nursing home beds (CGS § [17b-340](#)).

### ***Nursing Home Inspection***

After the completed licensure application is received, DPH conducts a scheduled inspection and investigation to ensure that the facility meets state and federal requirements. DPH renews a nursing home license every two years if the home passes an unscheduled inspection and submits required information (CGS §§ [19a-493\(b\)\(1\)](#) and [19a-498](#)).

### ***Consent Orders***

By law, DPH may require applicants seeking to purchase an existing nursing home to sign a consent order providing reasonable assurances they will comply with the public health code (CGS § [19a-491\(a\)](#)). In practice, DPH requires applicants to sign pre-license physical plant and clinical consent orders. The physical plant consent order requires the applicant to ensure the home complies with current public health and state building code requirements. It may also include corrective actions the applicant must make, depending on the home's history and the results of DPH's inspection.

The clinical consent order requires applicants to ensure compliance with statutory and regulatory clinical services and staffing requirements. Additionally, DPH also requires the home's new owner to pay for a nurse consultant to monitor the home's

clinical performance during the ownership transition. Generally, the nurse consultant works between eight and 40 hours per week for three to six months after the ownership change occurs.

According to DPH, it may also require an applicant to sign a pre-license management company consent order if the applicant has a history of citations or significant findings of deficiencies in other facilities that it has owned or operated. The department has only required this of two applicants to date.

### ***Approval Order***

Once the above steps have been successfully completed, DPH issues the applicant an approval order and the entity completes the purchase of the nursing home. The applicant must send DPH a copy of the closing documents from the nursing home's sale.

### ***Post-Transfer Meetings with DPH***

According to DPH, its clinical consent order requires new nursing home owners and their executive managers to meet with DPH within six weeks after the nursing home changes ownership and every six to eight weeks thereafter until the department is satisfied with the home's performance.

## **CERTIFICATE OF NEED**

CON is a regulatory tool used to limit expansion of unnecessary technology and health care facility capacity. A CON is a formal statement by a state regulatory agency that a health care facility, medical equipment purchase, or new medical service is needed. DPH's Office of Health Care Access (OHCA) is responsible for most CON reviews in the state. But for nursing homes, DSS is the agency responsible for CON review. (Responsibility for nursing home-related CONs was transferred from OHCA to DSS in 1993.)

A moratorium on new nursing home beds was originally instituted in 1991 and was made permanent by the legislature in 2015 ([PA 15-5, June Special Session](#)).

### ***Transfer of Ownership***

When a nursing home's ownership is transferred, state law requires a CON from DSS only when the transfer occurs before the facility's initial licensure (CGS § [17b-352](#)). Because of the moratorium on new nursing home beds, an individual or entity can only assume ownership of existing beds. Therefore, DSS is not currently issuing CONs to these entities.

This rule differs from the CON requirements for certain health care facilities under OHCA. In 1998, the legislature amended the law to require a CON review for the transfer of ownership or control of a health care facility's license at any time, not just before granting the initial license (PA [98-150](#)). The health care institutions, such as nursing homes, under DSS's jurisdiction are exempt from this requirement (CGS § [19a-638](#)).

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