

## **11 NCAC 11H .0102 LICENSE - STEPS**

An applicant shall apply for licensure in accordance with the following steps:

- (1) For new or development stage facilities:
  - (a) The applicant shall initially submit the following items to the Commissioner for review:
    - (i) The applicant's name, address and telephone number;
    - (ii) A copy of a non-binding reservation agreement form;
    - (iii) Escrow agreement;
    - (iv) Narrative describing the facility, its mode of operation, and its location; and
    - (v) Any advertising materials to be used.
  - (b) Upon completion of step (1)(a), the applicant may:
    - (i) Disseminate materials describing the intent to develop a Continuing Care facility; and
    - (ii) Enter into fully refundable non-binding reservation agreements for up to one thousand dollars (\$1,000.00). All funds received shall be escrowed.
- (2) Start-Up Certificate:
  - (a) In order to obtain a Start-Up Certificate, the applicant or provider shall submit the following to the Commissioner for review:
    - (i) Application for Licensure, as required by G.S. 58-64-5(b);
    - (ii) A Disclosure Statement, as required by G.S. 58-64-20;
    - (iii) A copy of a binding reservation agreement or resident agreement; and
    - (iv) A market feasibility study.
  - (b) Upon issuance of the Start-Up Certificate, the applicant or provider may:
    - (i) Enter into binding; reservation agreements or resident agreements;
    - (ii) Accept entrance fees and entrance fee deposits over one thousand dollars (\$1,000.00). Any funds received shall be escrowed and shall be released only in accordance with G.S. 58-64-35;
    - (iii) Begin site preparation work; and
    - (iv) Construct model units for marketing.
- (3) Preliminary Certificate:
  - (a) In order to obtain a Preliminary Certificate, the applicant or provider shall submit the following to the Commissioner for review:
    - (i) An explanation of any material differences between actual costs and projected costs contained in the Start-Up Certificate submission (not required for existing operational Continuing Care facilities that are expanding);
    - (ii) An updated Disclosure Statement;
    - (iii) Current interim financial statements; and
    - (iv) Confirmation of signed agreements for at least 50 percent of the new units, reserved by a deposit equal to at least 10 percent of the entrance fee or by a non-refundable deposit equal to the periodic fee for at least two months for facilities that have no entrance fee. Applicants that do not accept presale entrance fees shall place a deposit with the Commissioner. The deposit shall be either one hundred dollars (\$100.00) for each unit for 50 percent of the total proposed units, or one hundred thousand dollars (\$100,000), whichever amount is more. The deposit shall be made in accordance with G.S. 58-5-20. The deposit shall be refunded to the applicant upon receipt of a permanent license.
  - (b) Upon issuance of the Preliminary Certificate, the applicant or provider may:
    - (i) Purchase or construct a Continuing Care facility;
    - (ii) Renovate or develop structure(s) not already licensed as a Continuing Care facility; and
    - (iii) Expand existing Continuing Care facilities in excess of 10 percent of the current number of available Independent Living Units (ILU's) or available health related units/beds.
- (4) Permanent License:
  - (a) In order to obtain a Permanent License, the applicant or provider shall submit the following to the Commissioner for review at least 60 days before the facility opening:
    - (i) An updated Application for Licensure;

- (ii) An updated Disclosure Statement; and
  - (iii) Confirmation of signed agreements for new units required by the Continuing Care facility to break-even, reserved by a deposit equal to at least 10 percent of the entrance fee or by a non-refundable deposit equal to the periodic fee for at least two months for facilities that have no entrance fee.
- (b) Upon issuance of the Permanent License and satisfaction of all other legal requirements, the applicant or provider may:
  - (i) Open the Continuing Care facility; and
  - (ii) Provide Continuing Care.
- (5) Restricted or Conditional License:
  - (a) If all other licensing requirements are met, the Commissioner shall, in lieu of denying the issuance of a Permanent License, issue a Restricted or Conditional License to an applicant when one or more of the following conditions exist:
    - (i) A hazardous financial condition.
    - (ii) Occupancy at the facility, or the number of executed agreements for new units at the facility, is below the level at which the facility would break-even.
  - (b) Upon issuance of the Restricted or Conditional License, the provider may operate the facility under the conditions or restrictions established by the Commissioner until such time as the Commissioner alters the conditions for continued operations or issues a Permanent License.
  - (c) Upon issuance of the Restricted or Conditional License, the provider shall file with the Commissioner quarterly financial statements and an occupancy report. These shall be due no later than 45 days following the end of each fiscal quarter.

*History Note: Authority G.S. 58-2-40; 58-64-5; 58-64-65;  
 Eff. April 1, 1993;  
 Amended Eff. September 1, 2007; July 1, 2004;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.*