

VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

CHAPTER 723

An Act to amend and reenact §§ 63.2-1701 and 63.2-1702 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 37.2-405.2, relating to group homes and children's residential facilities; licensure; certain information required.

[H 597]

Approved April 6, 2020

Be it enacted by the General Assembly of Virginia:

1. That §§ 63.2-1701 and 63.2-1702 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 37.2-405.2 as follows:

§ 37.2-405.2. Certain information required of applicants to operate a licensed service.

A. Every applicant for licensure to establish, conduct, maintain, or operate or continue to operate a licensed service in the Commonwealth shall submit, together with an application for licensure:

1. A working budget showing projected revenue and expenses for the first year of operation, including a revenue plan;

2. Documentation of working capital to include (i) documentation of funds or a line of credit in the name of the applicant or owner sufficient to cover at least 90 days of operating expenses if the provider is a corporation, an unincorporated organization or association, a sole proprietor, or a partnership or (ii) appropriated revenue if the provider is a state or local government agency, board, or commission;

3. Documentation of authority to conduct business in the Commonwealth;

4. A statement of (i) the legal name of the applicant and, if the applicant is an association, partnership, limited liability company, or corporation, the names and addresses of its officers, agents, sponsors, partners, shareholders, or members and (ii) the legal name under which the applicant, any entity that operates group homes that is affiliated with or under common ownership or control with the applicant, and any entity that operates group homes and that is affiliated with or under common ownership or control with any officer, agent, sponsor, partner, shareholder or member of the applicant to which a license to operate a service has been issued in any other state, together with a list of the states in which such licenses have been issued and the dates for which such licenses were issued;

5. A statement of any previous revocation, suspensions, or sanction comparable to those set forth in § 37.2-419 against any license to operate a service issued to the applicant or any entity affiliated with the applicant in any other state, including the dates and descriptions of such disciplinary actions or sanctions;

6. A description of the specific services to be offered by the applicant including such elements as may be specified by the Department in regulations;

7. A staffing plan, including information regarding employee credentials and job descriptions, containing such elements as may be specified by the Department in regulations;

8. Operating policies that contain such elements as may be specified by the Department in regulations; and

9. Any additional documentation as may be required by the Department.

B. The Commissioner may refuse to grant a license to any application who fails or refuses to provide any information required to be submitted pursuant to subsection A.

§ 63.2-1701. Licenses required; issuance, expiration, and renewal; maximum number of residents, participants or children; posting of licenses.

A. As used in this section, "person" means any individual; corporation; partnership; association; limited liability company; local government; state agency, including any department, institution, authority, instrumentality, board, or other administrative agency of the Commonwealth; or other legal or commercial entity that operates or maintains a child welfare agency, adult day care center, or assisted living facility.

B. Every person who constitutes, or who operates or maintains, an assisted living facility, adult day care center, or child welfare agency shall obtain the appropriate license from the Commissioner, which may be renewed. However, no license shall be required for an adult day care center that provides services only to individuals enrolled in a Programs of All-Inclusive Care for the Elderly program operated in accordance with an agreement between the provider, the Department of Medical Assistance Services and the Centers for Medicare and Medicaid Services. The Commissioner, upon request, shall consult with, advise, and assist any person interested in securing and maintaining any such license. Each application for a license shall be made to the Commissioner, in such form as he may prescribe. It shall contain the name and address of the applicant and, if the applicant is an association, partnership, limited liability company, or corporation, the names and addresses of its officers and agents. The application shall also contain a description of the activities proposed to be engaged in and the facilities and services

to be employed, together with other pertinent information as the Commissioner may require. *In the case of an application for licensure as a children's residential facility, the application shall also contain information regarding any complaints, enforcement actions, or sanctions against a license to operate a children's residential facility held by the applicant in another state.*

C. The licenses shall be issued on forms prescribed by the Commissioner. Any two or more licenses may be issued for concurrent operation of more than one assisted living facility, adult day care center, or child welfare agency, but each license shall be issued upon a separate form. Each license and renewals thereof for an assisted living facility, adult day care center, or child welfare agency may be issued for periods of up to three successive years, unless sooner revoked or surrendered. Licenses issued to child day centers under this chapter shall have a duration of two years from date of issuance.

D. The length of each license or renewal thereof for an assisted living facility shall be based on the judgment of the Commissioner regarding the compliance history of the facility and the extent to which it meets or exceeds state licensing standards. On the basis of this judgment, the Commissioner may issue licenses or renewals thereof for periods of six months, one year, two years, or three years.

E. The Commissioner may extend or shorten the duration of licensure periods for a child welfare agency whenever, in his sole discretion, it is administratively necessary to redistribute the workload for greater efficiency in staff utilization.

F. Each license shall indicate the maximum number of persons who may be cared for in the assisted living facility, adult day care center, or child welfare agency for which it is issued.

G. The license and any other documents required by the Commissioner shall be posted in a conspicuous place on the licensed premises.

H. Every person issued a license that has not been suspended or revoked shall renew such license prior to its expiration.

§ 63.2-1702. Investigation on receipt of application.

Upon receipt of the application, the Commissioner shall cause an investigation to be made of the activities, services, and facilities of the applicant and of his character and reputation or, if the applicant is an association, partnership, limited liability company, or corporation, the character and reputation of its officers and agents, and upon receipt of the initial application, an investigation of the applicant's financial responsibility. The financial records of an applicant shall not be subject to inspection if the applicant submits an operating budget and at least one credit reference. In the case of child welfare agencies and assisted living facilities, the character and reputation investigation upon application shall include background checks pursuant to §§ 63.2-1721 and 63.2-1721.1; however, a children's residential facility shall comply with the background check requirements contained in § 63.2-1726. *In the case of a children's residential facility, the character and reputation investigation shall also include consideration of any complaints, enforcement actions, or sanctions against a license to operate a children's residential facility held by the applicant in another state.* Records that contain confidential proprietary information furnished to the Department pursuant to this section shall be exempt from disclosure pursuant to subdivision 4 of § 2.2-3705.5.