

GENERAL INSTRUCTIONS

This application must be used by home care services organizations seeking initial approval as a licensed home care services agency (LHCSA) or organizations seeking approval for a proposed change of ownership or operator, an acquisition or a change in control of an existing licensed home care services agency pursuant to State Public Health Law Sections 3605 and 361-a and Part 765 of Title 10 NYCRR. In addition to these general instructions, instructions for the completion of specific portions of the application also are included within the application itself.

Reference Material

The following reference materials may be of assistance when completing this application:

- Article 36 of the Public Health Law
<http://public.leginfo.state.ny.us/navigate.cgi>
- Approval and Licensure of Home Care Services Agencies – Part 765 of 10 NYCRR
http://www.health.ny.gov/regulations/nycrr/title_10/

Moratorium Enacted in the NYS 2018-2019 Budget, Effective April 1, 2018 (through March 31, 2020)

The NYS Budget for 2018-2019 includes a moratorium on processing and approving LHCSA licensure applications, with the following limited exceptions:

- Applications for Licensure of a LHCSA **associated with an application for an Assisted Living Program (ALP)**. The applicant must include the ALP application submission number. LHCSA applicants must have identical ownership to the ALP applicant. Approvals will be limited to serving the ALP residents only.
- Applications to **transfer ownership** of a LHCSA that has been in operation at least five years and **which is to consolidate two or more currently operational LHCSAs**. (Please note that the buyer, if a licensed LHCSA, must also be currently operational). The applicant will need to provide verification that both the buyer and seller meet the requirements, as applicable.
 - During the moratorium, the change or addition of controlling persons above the operator does not qualify under the exception criteria. As such, if the controlling person/entity chooses to submit an affidavit attesting they will refrain from exercising control over the LHCSA (see 10 NYCRR Section 765-1.14(a)(2) for required affidavit language) until the moratorium is lifted and an application can be submitted, processed, and approved, then the corporate transaction may proceed. Within 30 days of the moratorium being lifted, the agency must submit an application for PHHPC approval of the controlling person. Please contact cons@health.ny.gov for information on submitting an affidavit.
 - Transfers of ownership (full or partial) due to the death of an owner, partner, stockholder, member *without the consolidation of LHCSA licenses*, does not qualify under the exemption criteria. However, in accordance with section 401 of the State Administrative Procedure Act (SAPA), the LHCSA may continue to operate until the Moratorium is lifted and an application may be submitted, unless other sections of regulation or law require otherwise.
- Applications **seeking licensure to address a serious concern**, such as lack of access in a geographic area, or lack of access due to inadequate language or cultural or special population competence. There is a presumption of adequate access if there are two or more LHCSAs in the county. The applicant must provide data-driven evidence of the lack of access, that no existing agencies can address the concern, and that the applicant can address the concern. If more than one county is requested, the proof must be demonstrated for each county individually. Approvals will be limited to serving the specifically identified area or population only.

Please see additional guidance located on the Department's website at <https://www.health.ny.gov/facilities/cons/>

Submission Requirements

Submit the application containing the original signature authorizing the application through New York State Electronic Certificate of Need (NYSE-CON). Information regarding the submission of LHCSA applications through NYSE-CON are posted on the Department of Health's website <http://www.health.ny.gov/facilities/cons/>. Be advised that applicants are responsible for updating the Department of Health of any material changes in the application content that occur prior to obtaining licensure.

An application fee in the amount of \$2,000 is required for application submission pursuant to sections 3605 (13) and 361-a (3) of the Public Health Law. A check made payable to the New York State Department of Health must be received at the address below within 30 days of application submission and must reference the NYSE-CON-generated submission number.

**Bureau of Project Management
New York State Department of Health
Corning Tower, Room 1842
Albany, New York 12237**

Application Review Process during the Moratorium

The Department will conduct an initial assessment of the application upon receipt of the application fee. If the application does not qualify for processing during the moratorium, the applicant will be notified and the application fee returned.

If the application qualifies for processing during the moratorium, the application will be acknowledged and a review of the application will commence. As part of the review process, additional information may be requested. All correspondence will occur through the NYSE-CON system. When the review of the application is complete, the Department's recommendation concerning the application will be presented to the Public Health and Health Planning Council (PHHPC). Applicants will be notified through NYSE-CON when their application is scheduled on a PHHPC agenda and will also be notified of PHHPC's determination regarding approval, contingent approval or disapproval of the application.

Post-PHHCP Approval Process

Applicants seeking approval to establish a new agency are required to submit a policy and procedure manual to the address provided in the PHHPC's approval letter. The manual may not be submitted until after the application has been approved by PHHPC. The manual will be forwarded to the appropriate NYS Department of Health Regional Office, where it will be reviewed to determine compliance with the applicable law and regulations governing LHCSAs. The regional office will notify the applicant of any needed revisions. Once the manual has been approved and all contingencies have been satisfied, a pre-opening survey will be scheduled. The regional office will notify the Bureau of Home Care Licensure and Certification when they determine a license should be issued.

Applicants seeking approval for a change of ownership or operator, an acquisition or a change in control of an existing licensed home care services agencies will be directed to contact the appropriate regional office to finalize the approval of the application.

Whom to Contact for Assistance

Any questions concerning the application content and requirements should contact the Bureau of Home Care Licensure and Certification by e-mail at homecareliccert@health.ny.gov. Questions regarding technical issues with the NYSE-CON submission process should contact nysecon@health.ny.gov.

HEALTH CARE EXPERIENCE REQUIREMENT

As part of the character and competence review during application review, at least one of the principal shareholders of a corporation, member of a LLC, partner of a partnership, board member of a not-for-profit corporation or sole proprietor must have healthcare experience. Healthcare Experience may include, but is not limited to:

- Professional healthcare licenses/certifications held. Examples include, but are not limited to: Medical Doctor, Physician's Assistant; Nurse Practitioner; Registered Nurse; Licensed Practical Nurse; Emergency Medical Technician; Certified Nurse Aide; Home Health Aide; Personal Care Aide; Personal Care Technician; Occupational, Physical, or Respiratory Therapist; Speech-Language Pathologist; Licensed Clinical Social Worker; Licensed Master Social Worker
- Owner of a registered companion care company
- Ownership interest in a healthcare facility/agency
- Any relevant experience with director/officer/manager positions within a healthcare facility/agency
- Any relevant paid positions and experience within a healthcare facility/agency

All applicants are required to provide an Affirmative Statement of Qualifications on their Schedule 1 disclosure form that describes why the individual is qualified to operate a home care agency. Determinations regarding whether an individual has health care experience will be based on what is submitted in this statement.

QUALITY ASSURANCE GUIDELINES**Policy**

The Home Health Agency shall have a Quality Assurance Committee to establish and oversee the standards of care for the agency.

Procedure

1. The Quality Assurance Committee shall be appointed by the Board of Directors and shall include at least one nurse.
2. The Quality Assurance Committee shall meet quarterly.
3. The Quality Assurance Committee shall perform the following functions:
 - a. Review policies pertaining to the delivery of the health care services provided by the agency and recommend changes in such policies to the Board of Directors for adoption.
 - b. Review a random selection of patient's charts of current patients and discharged within the past three months, and all charts of patients who expressed complaints, to assess the safety, adequacy, type and quality of services provided.
 - c. Review all patient complaints and hear any patient grievance presented to the committee for resolution.
 - d. Review all patient incidents.
 - e. Review information on patients who were admitted to the agency but did not receive all of the scheduled services and patients who were denied admission to the agency.
4. A written summary of each meeting of the Quality Assurance Committee shall be presented to the Board of Directors for necessary action.