

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 620. CERTIFICATE OF NEED STANDARDS FOR HEALTH CARE
FACILITY ACQUISITIONS**

Unofficial Version

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[**Authority:** 63 O.S. Supp. 1991, Sections 1-850 et seq., and 63 O.S. Supp. 1991, Sections 1-880.1 et seq.]

[**Source:** Codified 12-31-1991]

SUBCHAPTER 1. GENERAL

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- 310:620-1-1. Purpose
- 310:620-1-2. Criterion [REVOKED]
- 310:620-1-3. Applicability [REVOKED]

310:620-1-1. Purpose

This Chapter sets the standards against which the Department shall review proposed acquisitions of facilities under the authority of 63 O.S. Sections 1-850 et seq., (Long-Term Care Certificate of Need Act) and 63 O.S. Sections 1-880.1 et seq., (Psychiatric and Chemical Dependency Facility Certificate of Need Act) and 75 O.S. Sections 250.1 through 323, (Administrative Procedures Act).

[**Source:** Amended at 12 Ok Reg 3065, eff 7-27-95; Amended at 14 Ok Reg 2261, eff 6-12-97; Amended at 18 Ok Reg 2496, eff 6-25-2001]

310:620-1-2. Criterion [REVOKED]

[**Source:** Revoked at 14 Ok Reg 2261, eff 6-12-97]

310:620-1-3. Applicability [REVOKED]

[**Source:** Added at 12 Ok Reg 3065, eff 7-27-95; Amended at 14 Ok Reg 2261, eff 6-12-97; Amended at 18 Ok Reg 2496, eff 6-25-2001; Revoked at 22 Ok Reg 2414, eff 7-11-2005]

SUBCHAPTER 3. STANDARDS

Section

- 310:620-3-1. Financial
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310:620-3-1. Financial

The applicant shall provide proof of sufficient financial resources to complete the acquisition and to maintain services and staffing that meet licensure standards for at least twelve (12) months following acquisition.

(1) **Financial proof for acquisition.** Proof of sufficient financial resources to complete the acquisition shall be provided in the following forms, as applicable:

(A) For conventional, bank, seller-carried, third party, or bond financing, a statement of the proposed principal amount, interest rate and repayment terms, and that the applicant has access to the required funds, signed under oath by a representative of the lending institution, seller, third party, or authority;

(B) For equity financing:

(i) An attested balance sheet for the acquiring party that is dated within the past twelve (12) months and that reflects cash or cash equivalents sufficient to fund the project; or

(ii) A certificate of deposit or other proof that funds are available and have not been pledged for some other purpose.

(C) For financing or other funding from or guaranteed by a third party that is not duly authorized or chartered as a bank:

(i) An attested balance sheet, certificate of deposit or other attested proof that is dated within the past twelve (12) months for the third party, unless the third party is a licensed insurer or surplus lines insurer, the United States of America, a state of the United States of America, or an agency or instrumentality thereof; and

(ii) Copies of organizational documents and contracts necessary to substantiate the relationship between the applicant and the third party.

(2) **Projected Budget.** Each application shall include a projected budget of revenues and expenses for the first twelve (12) months of operation of the facility after the anticipated issuance of the Certificate of Need. The Department may require the applicant to justify the difference between the applicant's projected budget and the facility's expenses and revenues as reported to the Oklahoma Health Care Authority pursuant to 56 O.S. Section 2002 or OAC 317:30-5.

(3) **Balance sheets.** All balance sheets shall include a release authorizing the Department to verify the financial

information submitted in the certificate of need application. The Department may make independent inquiry into the financial condition of the applicant.

(4) **Financial proof for services and staffing.** To ensure the maintenance of services and staffing, the applicant shall prove the availability of reserves equivalent to the average monthly projected expenses, in addition to funds needed to complete the acquisition. The amount of the average monthly expenses shall be calculated based on a per-month average of the projected twelve-month budget of revenues and expenses submitted with the application. Proof of the availability of reserves shall conform to the following:

(A) For reserves to be provided or maintained through letter of credit, line of credit, or conventional, bank or bond financing:

(i) A statement of the proposed principal amount, interest rate and repayment terms, and that the applicant has access to the required funds, signed under oath by a representative of the lending institution or authority;

(ii) A statement of provisions for terminating or rescinding a letter of credit or line of credit;

(B) For reserves to be maintained through the applicant's equity or net worth:

(i) An attested balance sheet that is dated within the past twelve (12) months for the acquiring party and that reflects cash or cash equivalents sufficient to meet the one-month reserves requirement; or

(ii) A certificate of deposit or other proof that funds are available and have not been pledged for some other purpose;

(C) For reserves to be funded or guaranteed by a third party that is not duly authorized or chartered as a bank:

(i) An attested balance sheet, certificate of deposit or other attested proof that is dated within the past twelve (12) months for the third party, unless the third party is a licensed insurer or surplus lines insurer, the United States of America, a state of the United States of America, or an agency or instrumentality thereof; and

(ii) Copies of organizational documents and contracts necessary to substantiate the relationship between the applicant and the third party.

(5) **Attested documents.** For the purposes of this section, the term "attest" shall have the meanings as defined in 59 O.S. Supp. 2004, Section 15.1A.

[Source: Amended at 12 Ok Reg 3065, eff 7-27-95; Amended at 14 Ok Reg 2261, eff 6-12-97; Amended at 18 Ok Reg 2496, eff 6-25-2001; Amended at 19 Ok Reg 2079, eff 6-27-2002; Amended at 22 Ok Reg 2414, eff 7-11-2005]

310:620-3-2. Staffing

The applicant shall provide documentation that sufficient personnel shall be retained or employed to meet the needs of all residents and to comply with all requirements for state licensure

and Medicare/Medicaid certification, if applicable. The documentation of staffing shall include written statements from the administrator, the director of nursing, the pharmacist, and the medical director, indicating their intentions to contract or accept employment with the applicant.

[Source: Amended at 12 Ok Reg 3065, eff 7-27-95]

310:620-3-3. Experience

If the applicant has less than sixty (60) months experience in health care facility operation immediately preceding the filing of the application, the applicant shall provide a plan which details how experienced and competent staffing and leadership shall be responsible for the facility operations. The operational plan shall include:

(1) Organizational papers, bylaws, articles of incorporation, partnership agreements, business plans, or other documents which confirm the applicant's claims about the policies, rights, duties and responsibilities of the applicant and its principals;

(2) Statements from the person or persons who shall fill management or administrative staffing and leadership positions, including but not limited to the director of nursing, the medical director, the administrator, and the applicant's policy body, with said statements to specify the minimum amount of time those persons shall spend working at the facility; and

(3) A statement from the applicant agreeing to advise the Department prior to any change in the staffing and leadership during the first six months of operation after the acquisition is finalized.

(4) A statement from the applicant agreeing that any person added to or replacing another person in the staffing or leadership plan during the first six months of operation shall comply with 63 O.S. Section 1-853.F and OAC 310:4-1-7.1.

[Source: Amended at 12 Ok Reg 3065, eff 7-27-95; Amended at 14 Ok Reg 2261, eff 6-12-97; Amended at 18 Ok Reg 2496, eff 6-25-2001; Amended at 19 Ok Reg 2079, eff 6-27-2002; Amended at 22 Ok Reg 2414, eff 7-11-2005]

310:620-3-4. Investigation [REVOKED]

[Source: Amended at 12 Ok Reg 3065, eff 7-27-95; Revoked at 14 Ok Reg 2261, eff 6-12-97]

310:620-3-4.1. Description of notice to residents and families

The form used to notify residents and families as required in 63 O.S. Section 1-852(I) requires the following information:

(1) The name of the applicant;

(2) The name and location of the facility to be acquired;

(3) A brief explanation of the public's opportunity to participate in the review of the certificate of need application;

(4) The location where and the times when the certificate of

need application shall be available for public inspection; and
(5) The address and deadline for submitting written comments
to the Department.

[Source: Added at 14 Ok Reg 2261, eff 6-12-97; Amended at 18 Ok
Reg 2496, eff 6-25-2001; Amended at 22 Ok Reg 2414, eff 7-11-2005]