CLIENT ALERTS & INSIGHTS

Update: New Skilled Nursing Facility Licensure Requirements in Ohio

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In August, Benesch published a client bulletin outlining new change of operator ("CHOP") license requirements for long-term care facilities in Ohio that were approved as part of the Ohio Fiscal Year 2020-2021 Operating Budget (the "New Requirements").

The New Requirements took effect October 17, 2019. Within the last week, the Ohio Department of Health ("ODH") published new application materials intended to implement the New Requirements. Official guidance remains limited; however, below is a summary of the significant changes to the application materials.

- **$1 Million Bond.** If the CHOP is consummated by the execution of a lease, the applicant must provide verification that the applicant has secured a bond with a term of at least twelve months, has an annual renewal, and is for an amount equal to or greater than $1 million dollars. If the applicant is unable to obtain such a bond, or if the CHOP is consummated in some way other than the execution of a lease, the applicant must provide an attestation by a CPA indicating that the applicant has financial resources to cover any reasonably anticipated revenue shortfall for at least twelve months after the CHOP occurs.
- **Ownership Disclosures and Verification of Requisite Experience.** In the CHOP license application, the applicant must demonstrate at least five years of experience in the ownership, operation, management, or administration of long-term care facilities, which list may include long-term facilities located within and/or outside of Ohio. For purposes of the application, "current and past long-term care experience" includes:
  - Current and past ownership in long-term care facility operations.
  - Current and past ownership in real property on which a long-term care facility is located.
  - Current and past service as a long-term care facility administrator or manager.
- **Quality Assurance and Risk Management Attestation.** The applicant must provide a signed attestation confirming that the long-term care facility undergoing the CHOP has a quality assurance and risk management plan for the operation of the long-term care facility on and after the effective date of the CHOP.

- **Professional Liability Insurance Attestation.** The applicant must provide a signed attestation confirming that the applicant has professional liability insurance of at least $1 million per occurrence and $3 million in the aggregate.

When it comes to transactions involving long-term care facilities, the New Requirements and the above changes to the CHOP license application will require greater attention and more in-depth due diligence by owners and operators of long-term care facilities in Ohio.

For more information, or if you have questions, contact a member of Benesch's Health Care & Life Sciences Practice Group.

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