



Government of **Western Australia**
Department of **Health**
Licensing and Accreditation Regulatory Unit

Licensing Standards

For Assessing the Suitability of a
Licence Applicant or a Licence Holder

Licensing and Accreditation Regulatory Unit

Department of Health
189 Royal Street
East Perth WA 6004

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Application – Licence Applicants or Licence Holders

Licensing of private hospitals, day hospitals, nursing posts, nursing homes and psychiatric hostels is regulated by the *Private Hospitals and Health Services Act 1927* (the Act). The Act makes provisions for the granting of licences by the Chief Executive Officer, the Director General of Health. The Director General must be satisfied about certain matters before a licence is granted or renewed. One such matter is the suitability of the licence applicant or a licence holder.

Between 2001 and 2004, the Healthcare Facilities Standards Reference Committee examined a number of areas pertinent to the licensing of health facilities, including the development of standards for assessing licence applicants and licence holders wishing to renew their licence.

This document outlines the minimum standards used to assess the suitability of a licence applicant or a licence holder, either during the original application process or when seeking the renewal of a licence.

The Department of Health Licensing and Accreditation Regulatory Unit administers the licensing process and uses the Licensing Standards for Assessing the Suitability of a Licence Applicant or a Licence Holder (the Standards) to ensure the licensing requirements are clearly explained for licence applicants.

The Standards were welcomed by the private health industry and have been used successfully during the application and annual renewal process since 2006. After more than 10 years of effective use, and as a result of changes in the legislative environment, the Standards have been reviewed and updated.

Dispensation may be granted to mandatory items in circumstances where additional time is required in order to achieve compliance with the Standards or where compliance is not practically achievable due to specific circumstances. Dispensations allow for the identification of a risk mitigation strategy which shall be monitored.

These revised Standards are applicable from 1 January 2018.

Glossary of terms

Act – the *Private Hospitals and Health Services Act 1927*.

Body corporate – any association of persons, whether incorporated or not, but does not include a partnership.

CEO – the Chief Executive Officer of the Department, pursuant to s 3 of the *Health Legislation Administration Act 1984*.

Character reference – a reference provided by a person who has known the licence applicant or licence holder for at least three years, and is competent to comment about the personal characteristics of the licence applicant or licence holder.

Company – an entity incorporated under the *Corporations Act 2001*.

Corporation – a company or an incorporated association.

Firm – a partnership between two or more persons or corporations.

Licensed health facility – a licenced hospital, day hospital, psychiatric hostel, nursing post or nursing home.

Hospital – premises where medical, surgical or dental treatment, or nursing care, is provided for ill or injured persons and at which overnight accommodation may be provided; and a day hospital facility; and a nursing post.

Incorporated association – an association incorporated under the *Associations Incorporation Act 2015*.

Independent professional person – a person not employed as a permanent member of staff.

Investigation – a formal inquiry by a statutory or law enforcement regulatory body, or a professional registration board or association.

Licence – a licence issued under this Act, pursuant to s 26A of the Act.

Licence applicant – the person, body corporate or firm who is applying for a licence to conduct a private hospital in accordance with the Act.

Licence holder – the person, body corporate or firm who has been granted a licence to conduct a private hospital in accordance with the Act.

Operational management – the person or group of persons who are responsible for the overall day-to-day management of the private hospital (for example, the Chief Executive Officer, the Director of Nursing or equivalent and members of the management team).

Private hospital – a hospital that is not a public hospital.

Private non-profit hospital – a private hospital, which is maintained by a religious or charitable organisation and is not carried on for the purpose of private gain.

Private psychiatric hostel – private premises in which 3 or more persons who –

- (a) are socially dependent because of mental illness; and
- (b) are not members of the family of the proprietor of the premises, reside and are treated or cared for.

Private hospital service provider – the holder of a licence granted under this Act to conduct a private hospital or a private psychiatric hostel.

Professional person – a person who is registered with the relevant regulatory body for that profession.

Professional reference – a reference provided by an independent professional person who knows the licence applicant or licence holder, and is competent to comment about the work, skills and/or competence of the licence applicant or licence holder.

Public hospital – a hospital:

- (a) controlled or managed by a health service provider or the Department CEO; or
- (b) declared to be a public hospital.

Note

Throughout this document where a licence applicant is required to produce documentation, this refers to an individual applicant, a body corporate or a firm.

In the case of a body corporate, documentation must be produced by the following persons:

- for a company – all directors and the company secretary
- for an incorporated association – members of the board of management
- for statutory bodies – persons charged with management responsibility under the relevant legislation
- for a firm – the partners.

Standard 1: Licence applicant identity

The licence applicant or licence holder must be eligible to apply for or maintain a licence under the Act.

Mandatory criteria

- 1.1 Where the licence applicants or licence holders are persons they must have attained 18 years.
- 1.2 The licence applicant's or licence holder's identity is established through verifiable, Government issued documentation, such as a passport or driver's licence.

Evidence to be submitted

- P1.1 The licence applicant or licence holder shall demonstrate:
- the age of licence applicant or licence holder
 - the name of licence applicant or licence holder and evidence of name change sighted, if relevant
 - that the licence applicant or licence holder is a body corporate, in the case of a body corporate.
 - that the licence applicant or licence holder is a 'firm', in the case of a firm or partnership.

Standard 2: Character and reputation

The licence applicant or licence holder must demonstrate the good character and reputation necessary to conduct a private licensed health facility.

Mandatory criteria

- 2.1 The licence applicant or licence holder shall provide evidence of trustworthiness and honesty.
- 2.2 The licence applicant or licence holder is able to demonstrate that they have not been convicted of any charges and are not currently subject to any charge for an offence which, if convicted, would render them unsuitable to hold a licence.

Evidence to be submitted

- P2.1 The licence applicant or licence holder must submit character references. In the case of an individual applicant or licence holder, at least two character references must be submitted. In the case of a company, one character reference must be submitted for each director and the company secretary. In the case of an incorporated association, one character reference must be submitted for each member of the board. In the case of a statutory body one character reference must be submitted for each person charged with management responsibility under the relevant legislation. In the case of a firm, one character reference must be submitted from each partner.
- P2.2 The licence applicant or licence holder must submit National Police Clearance Certificate/s that detail any criminal convictions. In the case of:
- an individual applicant – the individual person
 - a company – all directors and the company secretary
 - an incorporated association – members of the board of management
 - statutory bodies – persons charged with management responsibility under the relevant legislation
 - a firm – each of the partners.
- P2.3 If the licence applicant or licence holder has been charged and or convicted of a criminal offence that carries a penalty of imprisonment of 12 months or more in Australia or any other country, they must disclose:
- all details of any outstanding criminal charges and criminal convictions (other than spent convictions) made against them or anyone involved in the management of the private health facility which is the subject of the application.
 - all details of any investigations made for breaches of the *Corporations Act 2001* (Cth), the *Competition and Consumer Act 2010* (Cth) or any other Act administered by the Australian Securities Investments Commission or,
 - all details of any referral made to any professional registration board or association.

Standard 3: Material and financial resources

The licence applicant or licence holder must demonstrate that they possess sufficient material and financial resources and financial management expertise to conduct a private licensed health facility.

Minimum Criteria

- 3.1 The licence applicant or licence holder must demonstrate evidence of sufficient material and financial resources to conduct the private licensed health facility which is the subject of the application.
- 3.2 The licence applicant or licence holder must demonstrate evidence of insurance and indemnity that is reasonably appropriate to the private licensed health facility which is the subject of the application.

Evidence to be submitted

P3.1 The licence applicant or licence holder must declare that the licence applicant or licence holder has sufficient material and financial resources to conduct the private licensed health facility which is the subject of the application.

P3.2 Copies of the full audited financial reports for the last two financial years, including the parent company's financial statements (if a subsidiary).

Special purpose financial reports or management accounts where audited reports are not available, along with a statement affirming the financial statements provide a true and fair view of the financial affairs of the entity.

Newly established companies must provide documentation which demonstrates the sufficiency of the material and financial resources available.

P3.3 In circumstances where all issued capital of the licence applicant is owned by a parent company, the parent company must certify it will support the licence applicant or licence holder as a going concern.

P3.4 The licence applicant or licence holder to disclose whether they have ever been declared bankrupt under any bankruptcy law of the Commonwealth, State or Territory or any other country.

P3.5 In the case of a licence applicant or licence holder that is a company, the following information must be declared:

- has an administrator ever been appointed?
- has a receiver of property ever been appointed?
- has there ever been an application to have the company wound up other than for the purposes of amalgamation or reconstruction?
- has a liquidator or provisional liquidator ever been appointed to the company?

- P3.6 In the case of a licence applicant or licence holder that is an incorporated association, the following information must be declared:
- has an administrator of the incorporated association ever been appointed?
 - has a receiver of property of the incorporated association ever been appointed?
 - has there ever been an application to have the incorporated association wound up?
 - has a liquidator or provisional liquidator ever been appointed to the incorporated association?
- P3.7 In the case of a licence applicant or licence holder that is a firm with a partnership of two or more corporations the following information must be declared:
- has an administrator ever been appointed to any of the corporations?
 - has a receiver of property ever been appointed to any of the corporations?
 - has there ever been an application to have any of the corporations wound up in insolvency?
 - has a liquidator or provisional liquidator ever been appointed to any of the corporations?
- P3.8 The licence applicant or licence holder must submit copies of certificates of currency for the following classes of risk, including the amount of insurance cover:
- professional indemnity
 - medical malpractice insurance
 - building or industrial special risks insurance
 - public liability
 - workers' compensation or, if a self insurer, evidence of that fact.

Standard 4: Competency

The licence applicant or licence holder must demonstrate that they possess the competency to conduct a private licensed health facility.

Minimum Criteria

- 4.1 The licence applicant or licence holder must demonstrate that operational management personnel have the appropriate skills and qualifications to ensure the viability and safety of the private licensed health facility, which is the subject of this application.
- 4.2 The licence applicant or licence holder must demonstrate that operational management personnel are persons who are fit to manage and control the private licensed health facility, which is the subject of the application.
- 4.3 The licence applicant or licence holder must demonstrate that operational management personnel understand and comply with the duties and obligations of governing the private licensed health facility, which is the subject of the application.

Evidence to be submitted

- P4.1 The licence applicant or licence holder must provide:
- details of the operational management team, including names, positions, qualifications and experience
 - information on the person who is a member of management or in a management position who has the understanding of the duties and obligations to conduct a private licensed health facility.

This document can be made available in alternative formats on request for a person with disability.

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