



Department
of Health

Adult Care Facility (ACF) Common Application

ACF Common Application

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The Adult Care Facility (ACF) Common Application allows for the submission of each of the following application types in one concise and comprehensive application:

- Adult Home (AH) or Enriched Housing Program (EHP)
- Assisted Living Residence (ALR)
 - Enhanced ALR (EALR)
 - Special Needs ALR (SNALR)
- Assisted Living Program (ALP)

- Additional schedules allow for expedited review.

- Applicants should refer to [Schedule 1](#) to determine which Schedules will be required based on Submission Type.

New York State Electronic Certificate of Need (NYSECON)

The ACF Common Application must be uploaded to the New York State Electronic Certificate of Need (NYSECON) system for review by the Department of Health.

The ACF Common Application information and Schedules are available at:
https://www.health.ny.gov/facilities/adult_care/application/.

The original signature page at [Schedule 1A, page 3](#) or if an abbreviated application, the appropriate original signature page of the applicable [Schedule 7](#), must be mailed to the New York State Department of Health, Division of Adult Care Facility and Assisted Living Surveillance, 875 Central Avenue, Albany, NY 12206.

NYSECON

The NYSECON system may be accessed via one of two methods:

- Applicants with access to the Health Commerce System (HCS) may access NYSECON through the HCS, NYS Electronic Certificate of Need application.
- Applicants without access to the HCS must access NYSECON via <https://my.ny.gov>.

If the applicant seeks to make changes to an existing adult care facility, the individual submitting the application must have been assigned the HCS CON Submitter role for the existing, specific adult care facility.

Application Types

The ACF Common Application is required to:

- Establish a New ACF
- Establish an ALP After Receipt of DOH Award
- Existing ACF Establishing a New ALR/ALP After Receipt of DOH Award
- Existing ALR Establishing a New Certification (EALR/SNALR)
- Increase in Bed Capacity by More Than Nine (9) Beds
- Change of operator of an Existing ACF
- Establish a New Manager
- Transfer of 10% or More Ownership Interest
- Construction or Renovation Beyond Routine Maintenance
- Facility Name Change

ACF Common Application Schedules

The ACF Common Application is divided into eight (8) schedules:

- Schedule 1 – General Information
- Schedule 2 – Personal Qualifying Information
- Schedule 3 – Legal Information
- Schedule 4 – Financial Information
- Schedule 5 – Architectural Information
- Schedule 6 – Program Information (Part II)
- Schedule 7 – Expedited Forms
- Schedule 8 – Operator in Good Standing (Request for Approval)

Schedule 7: Expedited Forms

- 7A – Limited Change of Ownership Notice
- 7B – ACF Notification of Business Conversion
- 7C – Bed Capacity Increase
- 7D – Application to Operate a Day Program for Non-Residents
- 7E – Decertification of Bed Capacity

Part 1

Schedules 1 - 5

ACF Common Application Part I

- Part I of the application consists of the following components:
 - Character and Competence
 - Legal
 - Financial
 - Architectural
 - Need (for Adult Homes only)
- The Character and Competence review encompasses the operator's compliance with all applicable regulations and satisfaction of enforcement activities at affiliated health care facilities or programs and remains open until final application recommendation.

ACF Common Application Schedules

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- All ACF Common Application Schedules and supporting documents must be uploaded to the NYSECON system.
- The Bureau of Licensure and Certification reviews the submission for completeness and, if acceptable, acknowledges the application and assigns the applicable Part 1 review units.
- Once the applicant uploads [Schedule 6](#) to the NYSECON system, the application is assigned to the Regional Office that serves the county in which the facility will be operating or where it is currently located.

Residency Agreement/Admission Agreement

- Residency Agreement (RA) and/or Admission Agreement may be uploaded to the application at any time during the review.
 - The RA or Admission Agreement may include addenda for EALR, SNALR, and/or ALP services.
 - Best practice is to submit early in the process.
- The Admission Agreement or the RA and applicable addenda, are reviewed during Part II review by the Regional Office.

Part I and Part II may be reviewed simultaneously

- Final approval to commence or assume operations requires both Part I and II approval ([Schedules 1-6](#)).

ACF Common Application Expedited Processes

- The ACF Common Application has expedited processes for the legal, financial and/or architectural components, as well as for licensed operators in good standing, each of which may be utilized under specific circumstances.
 - The expedited processes may be found within Schedules [3B](#), [4E](#), [4F](#), [5E](#) and at [Schedule 8](#).
 - These schedules are to be used **in conjunction with** (not in place of) Part I of the application. All appropriate documentation must be uploaded to NYSECON along with the entire application.

Schedule 1 (A-E)

- https://health.ny.gov/facilities/adult_care/application/
- **1A General Information**
- **1B Project Description**
 - Business type, facility type, county, number of beds (not units) must be indicated
- **1C Checklist of Schedules**
 - All three schedules A-C are required from all applicants.
- **1D ALR/EALR/SNALR Applicants Only**
 - Additional General Information and Biennial Fee Calculation
- **1E ALP Applicants Only (additional Information Required)**
 - Must have an active ALP award to perfect an application to operationalize ALP beds.
 - Must be approved either as an AH or EHP **–and–** Licensed Home Care Services Agency (LHCSA), Long Term Home Health Care Program (LTHHCP) or Certified Home Health Agency (CHHA).
 - Both entities must be under identical ownership.
 - Must attach a letters of interest as indicated in the applicable ALP award.
 - Identify Payor Source (% of Public vs. Private Pay).
 - Shareholder and Medicaid Affidavit.
 - Medicaid provider enrollment is initiated after full application approval is issued by Licensure and Certification as the Operating Certificate information is required for enrollment).

Schedule 2 (A-D)

- <https://health.ny.gov/forms/doh-5094.pdf>
- **Schedule 2 Worksheet to list Officers, Directors or Members**
- **Schedule 2A Personal Qualifying Information (PQI) for the Director's/Members**
 - Full disclosure on all questions for all relevant history within the past ten (10) years including;
 - Identifying information, education, licenses, employment history of each Member;
 - Offices Held, Ownership Interest or any affiliations with any other ACF or health care facilities;
 - Relatives Ownership Interest in any other ACF or health care facilities;
 - Enforcement History and Record of Legal Action;
 - Affirmative Qualifying Statement; and
 - Attestation, signature and notary required (certifying under penalty of perjury, that all information is accurate and complete).

Schedule 2 (A-D) (cont.)

- **Schedule 2B Personal Financial Statement**
 - Full disclosure of all relevant history within the past **10 years**
 - Attestation, signature and notary required
- **Schedule 2C Director's Statement**
 - To be completed by directors of not-for-profit corporations
 - Attestation, signature and notary required
- **Schedule 2D Compliance Form for Out of State Facilities**
 - Initiated by the applicant after an application is acknowledged.
 - Form must be sent to the applicable state regulatory or licensing department of each/any affiliated health care entity located out-of-state.
 - Preferred: Ask that information be returned to acfcon@health.ny.gov.
 - Alternative: Include a stamped envelope addressed to the Department of Health, Division of Adult Care Facility and Assisted Living Surveillance to return information.

Schedule 3A General Legal Requirements for all applicants

- <https://health.ny.gov/forms/doh-5095.pdf>
- Must complete forms located within 3A.
- Sample language and provisions for each type of legal entity is contained within the instructions. Applicants should refer to these sample statements located in 3A when preparing the legal documents.

Must include Provisions and/or Language within:

- **Lease** “Notice to the Department” language
 - Must maintain fiscal authority, sole control of facility’s revenue and expenditures and accounts must be in the name of the established operator
- **Purpose Language**
 - Required for the Certificate of Incorporation or Articles of Organization (amended and restated as appropriate)
- **General Partnership**
 - Specific Provisions within the Partnership Agreement
- **LLC**
 - Specific Provisions within the Articles of Organization for proposed changes need written approval from the Department

Schedule 3A General Legal Requirements for all applicants (continued)

- **Corporation Requirements**
 - Provision within the Certificate of Amendment or Certificate of Incorporation to include:
 - Limit the director's liability;
 - Transfer of member's interest; and
 - Shareholder affidavit
- **Not-for Profit Corporation**
 - Minimum of Seven (7) Board Members
- **Management Agreements**
 - Include provisions and statements that demonstrate:
 - Compliance with statutes/regulations and
 - That the operator maintains authority

Schedule 3B ACF Legal Certification

Schedule 3B “ ACF Legal Certification” is optional for certifying some or all the legal component of the common application. It must be completed and certified by an attorney licensed to practice in NYS.

- Through this certification, the legal reviewer (attorney) is attesting that they are knowledgeable as to the applicable New York State laws and regulations for Adult Care Facilities and Assisted Living Residences; and
- That all submitted legal documents are thorough and correct.

While the submission of the Legal Certification may help expedite the legal component of the application if properly submitted, it does not guarantee approval of the legal component based on such factors as significant deviation or omissions of the statutes/regulations identified by the Department.

Schedule 4 (A-F)

- <https://health.ny.gov/forms/doh-5096.pdf>
- **Schedule 4A General Financial Information - All Applicants**
 - Must be filled out completely. If the answer is not applicable, this must be indicated.
- **4B Start up Operating Projections for**
 - All ACF and/or ALR;
 - New facilities or increases in capacity by more than nine (9) beds; and
 - Must include two (2) year projections; reaching 90% occupancy.
- **4C Annual Operating Budget Projections for**
 - All ACFs and/or ALRs;
 - Projected budget at 90% Occupancy; and
 - Encompass a 12-month period.
- **4D ALP Applications Only Projected Budget**
 - Encompass a 12-month period.

Schedule 4 (A-F) (cont.)

Schedule 4E Attestation for Substantial Bed Increase Application (optional)

- This Attestation may be submitted in place of Schedule 4B Start Up Operating Budget Projections and 4C Annual Operating Budget Projections for the following:
 - An application for 10 or more AH or EHP bed increase; and
 - ALR/EALR/SNALR bed increase of 10 or more, except where a new certification (EALR or SNALR) is requested.
- If the bed increase involves construction that is being financed, the Department will not accept a financial attestation. The applicant must submit construction finance documents.
- This Attestation may only be utilized if the facility is current with its Financial Reporting requirements on the Health Commerce System (HCS).

Schedule 4 (A-F) (cont.)

Schedule 4F Attestation for Change of Operator Application (optional)

- This Attestation may be submitted in lieu of Schedule 4B Start Up Operating Budget Projections and Schedule 4C Annual Operating Budget Projections for the following:
 - Change of Operator applications where the budget will not change in any material way as a result of the proposed operator change;
 - All other required application information is submitted for Department review; and
 - The following entities are current with their financial reporting requirements:
 - the facility for which the change of operator application is being submitted;
 - all facilities owned and operated by the proposed selling operator; and
 - all facilities owned and operated by the proposed new operator.

Schedule 5 (A-E)

- <https://health.ny.gov/forms/doh-5097.pdf>
- Adult Home, Enriched Housing Program and Assisted Living Program applications must meet applicable provisions of the Existing Building Code of New York State, Title 18 NYCRR Parts 485, 487, 488, 494 and/or Assisted Living Residences Title 10 NYCRR Section 1001.13.
- **The following regulatory references apply to Adult Care Facilities and Assisted Living Residences**
 - 18 NYCRR § 487.11 Environmental Standards – Adult Home
 - 18 NYCRR § 488.11 Environmental Standards – Enriched Housing
 - 18 NYCRR § 494.7 Environmental Standards – Assisted Living Program
 - 10 NYCRR § 1001.13 Structural and Environmental Standards – Assisted Living Residences

Schedule 5 (A-E) (cont.)

- **Schedule 5A – General Architectural Requirements**

All applicants must complete this schedule for the following Submission Types:

- New Establishment;
- Licensure/Certification as an ALR, EALR, SNALR and/or ALP;
- Change of Operator; and
- Construction or Renovation Beyond Routine Maintenance.

- **Schedule 5B – Adult Care Facility Architectural Certification**

- See Schedule 5D – Architectural Matrix to determine which participants must complete the Architectural Certification, if applicable.
- Must be completed by a Professional Engineer or Registered Architect.
- Signature and Notarization required.
- Design professional is certifying that the facility is in compliance with all New York State and local laws, regulations and ordinances; or, if certifying that project “will be in compliance” prior to construction, a Final Architectural Certification (5C) will be required.

Schedule 5 (A-E) (cont.)

- **Schedule 5C – Final Architectural Certification**
 - To be submitted only if the original ACF Architectural Certification (Schedule 5B) was based on preliminary or schematic drawings.
 - To be submitted after completion of construction or renovations **and prior to** final approval and/or licensing by the NYS Department of Health.
 - All other requirements apply.
- **Schedule 5D – Adult Care Facility Architectural Matrix**
 - Assists with determining whether the project will require Architectural Certification and, if so, whether the project will require a Third-Party Certification in addition to the Primary Registered Architect or Professional Engineer Certification.

Schedule 5 (A-E) (cont.)

- **Schedule 5E Early Commencement of Construction (optional)**

This acknowledgment form is to be used when an applicant wishes to commence construction prior to Part I Approval.

- This form must be submitted with the Part 1 application, including the Architectural Certification (Schedule 5B) signed by a Professional Engineer or Registered Architect to include the preliminary or schematic drawings.
- The Department will provide a response to the applicant's request for early commencement within 60 days of receipt of all required application information.
- The applicant understands that the project has not received Part I or Part II approval and acknowledges that it cannot commence operation of an ACF without full approval from the NYS Department of Health.
- The applicant further acknowledges that it commences construction at its own risk and that the facility must be constructed in accordance with all applicable laws, codes and regulations of NYS.
- Final approval will not be granted until the Final Architectural Certification Form (Schedule 5C) is submitted along with the final set of plans, and not until after a final walk-through of the facility is conducted by the Department.

Schedule 5 (A-E) (cont.)

- For more information:
 - https://health.ny.gov/facilities/adult_care/application/docs/architectural_submissions_guide.pdf

Part II

Schedule 6

<https://health.ny.gov/forms/doh-5098.pdf>

- Conducted by the Regional Office.
- Applicants may upload all Schedule 6 documents to NYSECON at any time during the review process, however it must be submitted no later than 90 days after the approval of Part I.
- Upon receipt of all required documents based on the Submission Type, the applicable regional office will send the applicant an Acknowledgement of receipt via NYSECON correspondence.
 - Please refer to [Dear Administrator Letter #22-20](#).
- The following Part II/Schedule 6 information requires approval and will be subjected to pre-approval review:
 1. Emergency and Disaster Plan
 2. Personnel Qualifications
 3. Admission/Residency Agreements and addenda as applicable
 4. Waivers
- Ensures the physical plant meets all state and local codes.

Schedule 6 (cont.)

- **Process for Part II**
 - An applicant may indicate in their Schedule 6 submission that there will be no change to established policies and procedures.
 - This may not be acceptable for all applications based on the Submission Type.
 - A copy of the facility's policies and procedures must be maintained at the facility and be made available upon request.
 - Refer to [Dear Administrator Letter #22-20](#).

Schedule 6 (cont.)

• Regulatory Waivers

- Applicants requesting waivers for alternate methods of complying with regulations must upload to the NYSECON system the Adult Care Facility Waiver Request/Equivalency Notification Form ([DOH-4235](#)) and/or Construction/Architectural Waiver Request ([DOH-5226](#)) for physical plant waivers.
- Waivers that may pose risk to residents will not be approved.
- Waivers may disapproved, approved, or conditionally approved.
- A letter of determination is sent to the applicant upon the Department's determination on the request.
- Waivers are non-transferrable. Accordingly, a proposed operator must submit new waiver requests with a change of operator application.
- Questions regarding waivers may be submitted to acf.waiver@health.ny.gov.

Abbreviated Schedules

Schedule 7 (A-E)

- **Schedule 7 includes 5 applications that may be expedited and approved within 90 days**
 - [7A Limited Change of Ownership Notice](#)
 - [7B ACF Notification of Business Conversion](#)
 - [7C Bed Capacity Increase](#)
 - [7D Application to Operate a Day Program for Non-Residents](#)
 - [7E Decertification of Bed Capacity](#)

Schedule 7A Limited Change of Ownership Notice

- <https://health.ny.gov/forms/doh-5099.pdf>
- Schedule 7A is used for transfers of less than 10% interest or voting rights to a new person or any transfers to a person already approved by the Department for the specific operator/entity.
- Within 90 days from the date of receipt of such notice, the Department may bar any such transaction only if it finds there are reasonable grounds to believe the proposed transaction does not satisfy the good standing or character and competence review criteria, as outlined in regulation. The Department shall state specific reasons for barring any transactions and shall notify each party to the proposed transaction.

Schedule 7B Notification of Business Conversion

- <https://health.ny.gov/forms/doh-5100.pdf>
- Provides the Department with notification of the intent of an existing facility to convert its business operations (e.g. Partnership to LLC with same members)
- Schedule 7B must be submitted to the Department 90 days prior to the transaction along with:
 - A transaction narrative (proposed change); and
 - All appropriate legal documentation of the proposed (new) operator (e.g. agreements, D/B/A, Articles of Organization).

Schedule 7C Bed Capacity Increase

- <https://health.ny.gov/forms/doh-5100.pdf>
- May be used for increases of up to nine (9) ACF, ALR, EALR and/or SNALR beds.
- The overall bed capacity cannot exceed 200 beds.
- Cannot be used more than once within a five-year period.
- The Department reserves the right to deny applications if the applicant has submitted multiple applications that constitute a misuse of the expedited process.
- This form may be used for projects that require minor renovations to existing buildings but may not be used for construction projects.

Schedule 7D Approval to operate a Day Program for Non-Residents

- <https://health.ny.gov/forms/doh-5102.pdf>
- Refer to Title 18 NYCRR Parts 485.2 and 492
- This form must be submitted with:
 - Program Director qualifications;
 - Written description of the proposed day program; and
 - The following program forms:
 - Agreement/s which non-residents must sign;
 - Medical evaluation;
 - Pre-admission interview form;
 - Written plan for services; and
 - Daily attendance record.

Schedule 7E Bed Capacity Decrease (Decertification of Bed Capacity)

- <https://health.ny.gov/forms/doh-5103.pdf>
- This application is used to request bed decertification for all ACF types.
- The applicant must indicate in the application whether the beds being decertified are currently occupied and, if so, indicate the plan and timetable for transferring residents to an appropriate setting.
- If the decertification requires renovations, additional information may be required.

Operator in Good Standing

Schedule 8 Operator in Good Standing

- <https://health.ny.gov/forms/doh-5105.pdf>
- The applicant must upload this form in conjunction with a complete ACF Common Application pursuant to New York State Social Services Law §461-b(2)(b) or Public Health Law §4653(2).
- Current Operators in good standing that apply to operate an additional “like” facility with the same licenses and certifications as one or more of its existing facilities, may submit this form for approval of the project, provided that the applicant’s last approval was issued within the past two (2) years and is currently in good standing with the Department.
- This form contains the following five sections:
 - Project Information
 - Certification of Good Standing
 - Current NYS Operations
 - Required Certifications
 - Applicant’s Self Certifications for Architectural, Legal, Financial and Out of State Compliance (if applicable)
 - Previously Approved Materials

Schedule 8 Operator in Good Standing (*cont.*)

- The Department will take the following steps when reviewing the Operator in Good Standing Form:
 - Verify that the form is complete;
 - Verify that the Operator is in good standing pursuant to the standards in Chapter 414 of the Laws of NY 2013;
 - Conduct a character and competence review pursuant to Title 18 NYCRR §485.6(b), provided the Department considers the certification in Section II of this form;
 - Verify the Operator currently operates a NYS facility with identical licenses;
 - Verify the last approval for the “like” facility was within the last two (2) years;
 - Items identical to those approved by the Department within the last two (2) years will not be re-reviewed; and
 - Verify the architectural certification has been submitted and is complete.

Schedule 8 Operator in Good Standing (*cont.*)

- If all components of the Department's review of the Operator in Good Standing form have been satisfied, the Department will:
 - Notify the applicant within 60 days of receipt of the application that they qualify for consideration under the good standing process.
 - Issue a "Conditional Approval" to operate the like facility. This conditional approval will be reevaluated every 6 months to ensure the applicant maintains good standing while the project is pending full Department approval.
- In order to maintain good standing the Applicant:
 - Must respond to all requests for additional information related to the application for licensure; and
 - Remain in good standing at affiliated licensed facilities.
- Failure to promptly respond to the Department's requests for additional information will result in revocation of the Good Standing Approval and a referral for enforcement action may be taken.

Additional Information

Assisted Living Program (ALP)

For Home Care License Applications:

- Licensed Home Care Services Agency – www.health.ny.gov/forms/doh-1056.pdf
- Certified Home Health Agency -
www.health.ny.gov/facilities/cons/more_information/docs/sch_21.doc
- Inquiries: Homecare@health.ny.gov

Medicaid enrollment for ALP providers:

www.emedny.org/info/ProviderEnrollment/assisted_living/index.aspx

Inquiries: 1-800-343-9000

Questions

Please send all questions related to the use of the ACF Common Application, forms or processes to

acfcon@health.ny.gov.