



# Department of Health

**KATHY HOCHUL**  
Governor

**JAMES V. McDONALD, M.D., M.P.H.**  
Acting Commissioner

**MEGAN E. BALDWIN**  
Acting Executive Deputy Commissioner

03/27/2023

DAL: DAL #23-12 Notification of  
Member/Owner Death

Dear Adult Care Facility Owner/Operator/Administrator:

This Dear Administrator Letter (DAL) clarifies the requirements set forth at 18NYCRR §485.5(k) to notify the Department upon the death of an operating entity member and sets forth the conditions for which the Department may provide temporary approval to maintain continued operations under the outstanding operating certificate.

Upon the death of a member/owner, the remaining partner(s), member(s), or shareholder(s); the decedent's spouse; or the Executor of the Estate must submit written notification to the Department no more than thirty (30) calendar days from the date of death.

Such notice must be submitted to [acfcon@health.ny.gov](mailto:acfcon@health.ny.gov) and include:

- **Certificate of Death**
- **Proof of Submitter Status** – Confirmation that the submitter is either the remaining partner(s), member(s) or shareholder(s); the decedent's spouse, or the Executor of the Estate, thereby meeting the requirements set forth in regulation.
- **Plan for Continued Facility Operation** – How the facility operations will be maintained until such time as the facility either closes or a new Operating Certificate (OC) is issued. If necessary to support the plan, such as in the case of a request to Establish a New Manager, a project application must also be submitted via the New York State Electronic Certificate of Need (NYSE CON) platform at the time of notification.
- **Notice of Intent to File** – Submitter(s) must include a timeline for submission of either an application to modify an existing/establish a new OC or a proposed closure plan. Any proposed filing must include a timeline that allows for completion of the proposed project/closure within ninety (90) calendar days of the date of death.

If an extension is required, the submitter(s) must include a formal request for extension with justification and proposed deadline. Submitters must demonstrate how current operations will be maintained and ensure that resident services remain uninterrupted within the period of the extension. Absent written notification of approval, all submitters must comply with the deadlines set forth herein. The Department reserves the right to modify the proposed deadline as it deems necessary.

Any temporary approval issued, shall continue only while the facility is compliant with regulation.

Existing projects may be held or withdrawn, at the Departments discretion. In such cases, written notification will be issued to the applicant contact. New applications may not be submitted until an application to modify an existing/establish a new OC is approved and the OC is issued.

If a facility proposes to close, the Closure Plan must be reviewed and approved by the Department prior to commencing any closure activity.

Failure to submit timely notification, application, or proposed closure plan may result in suspension, revocation, limitation, modification or denied renewal of the existing Operating Certificate.

Sincerely,

Kristen M. Pergolino, Director  
Bureau of Adult Care Facility  
and Assisted Living Licensure

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