

Licensing Standards and Review Unit

Licensing Standards for Assessing the Suitability of a Licence Applicant or a Licence Holder

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Licensing Standards for Assessing the Suitability of a Licence applicant or a Licence Holder

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Introduction

Private Hospitals are licensed under the *Hospitals and Health Services Act 1927* (the Act). The Act makes provisions for the granting of licences by the Commissioner of Health. The Commissioner must be satisfied about certain matters before a licence is granted. One such matter is the suitability of the Licence Applicant and the Licence Holder.

During 2001 - 2004 the Healthcare Facilities Standards Reference Committee examined a number of areas pertinent to the licensing of Private Hospitals, including the development of standards for assessing Licence Applicants and Licence Holders.

The following are the minimum standards for assessing Licence Applicants and Licence Holders.

A Private Hospital is defined in the Act. Part 1 section 2, states:

“private hospital” means a hospital that is not a public hospital

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

“public hospital” means any hospital that is -

(a) conducted or managed by -

- a board constituted under this Act; or

- the Minister under this Act;

or

(b) declared to be a public hospital under section 3.

“hospital” means an institution for the reception and treatment of persons suffering from illness or injury, or in need of medical, surgical or dental treatment or assistance, and includes a maternity home or maternity hospital, day hospital facility, nursing home or nursing post.

“private psychiatric hostel” means 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 (refer section 26P).

Section 26Q states that Part IIIA applies to private psychiatric hostels.



Glossary of Terms

“Act”	The Hospitals and Health Services Act 1927.
“Body Corporate”	includes any association of persons, whether incorporated or not but does not include a partnership.
“Character reference”	provided by a person who has known the Licence Applicant/Licence Holder for at least three years, and is competent to comment about the personal characteristics of the Licence Applicant/Licence Holder.
“Company”	a company incorporated under the Corporations Law.
“Corporation”	a Company or an Incorporated Association.
“Criminal charges and criminal convictions”	refer to offences as set out in section 3 of the Criminal Code Act Compilation Act 1913, as amended from time to time.
“Firm”	a partnership between two or more persons, or Corporations.
“Incorporated Association”	an association incorporated under the Associations Incorporation Act 1987.
“Independent professional person”	a professional person who does not provide regular professional services to the Licence Applicant/Licence Holder.
“Investigation”	a formal inquiry by a statutory or law enforcement regulatory body, or a professional registration board or association.
“Licence”	as defined in section 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 Parts IIIA and IIIB of the Act.
“Operational management”	the person or group of persons who are responsible for the overall day-to-day management of the private hospital (ie the Chief Executive Officer, the Director of Nursing or equivalent and members of the management team).
“Professional person”	a person who is registered with the relevant regulatory body for that profession.
“Professional reference”	provided by an independent professional person who knows the Licence Applicant/Licence Holder, and is competent to comment about the work, skills and/or competence of the Licence Applicant/Licence Holder.
“Licence Holder”	the person, body corporate or firm who has been granted a licence to conduct a private hospital in accordance with Parts IIIA and IIIB of the Act.

Throughout this document where a Licence Applicant is required to submit documentation, this refers to an individual applicant, a Body Corporate or a Firm.

In the case of a Body Corporate documentation must be submitted from:

- for a Company - all directors and the company secretary;
- for an Incorporated Association - members of the Board of Management; and
- for Statutory Bodies - persons charged with management responsibility under the relevant legislation.

In the case of a Firm documentation must be submitted from the partners.



Standard One LICENCE APPLICANT IDENTITY

Standard The Licence Applicant/Licence Holder must be eligible to apply for/or maintain a licence under the Act.

Relevant Reference Hospitals and Health Services Act 1927, section 26B(2)(a).

Minimum Criteria

- 1.1 Where the Licence Applicants/Licence Holders are persons they must have attained 18 years.
- 1.2 The Licence Applicant's/Licence Holder's identity is established through legal documentation.

Evidence to be submitted

P1.1 The Licence Applicant/Licence Holder must declare:

- age of Licence Applicant/Licence Holder;
- name of Licence Applicant/Licence Holder and evidence of name change sited, if relevant;
- that the Licence Applicant/Licence Holder is a Body Corporate, in the case of a Body Corporate. (Details of the Body Corporate must also be provided); and
- that the Licence Applicant/Licence Holder is a 'Firm', in the case of a Firm or Partnership. (Details of the type of Firm and the Partners of the Firm must also be provided).



Standard Two CHARACTER AND REPUTATION

Standard The Licence Applicant/Licence Holder must demonstrate the good character and reputation necessary to conduct a private hospital.

Relevant Reference Hospitals and Health Services Act 1927, section 26B(2)(b).

Minimum Criteria

- 2.1 The Licence Applicant/Licence Holder shall provide evidence of trustworthiness and honesty.
- 2.2 The Licence Applicant/Licence Holder is able to demonstrate that he/she/they have not been convicted of any charges and are not currently subject to any charge for an offence which would render the applicant/Licence Holder unsuitable to hold a Licence.

Evidence to be submitted

P2.1 The Licence Applicant/Licence Holder must submit character references. In the case of individual Applicant/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/Licence Holder must submit National Police Clearance Certificate/s that detail any criminal convictions for the following (as relevant):

- for an individual applicant - the individual person;
- 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; and
- for a Firm - each of the partners.

P2.3 If the Licence Applicant (or any of the persons referred to in P2.1 for Companies, Incorporated Associations, Statutory Bodies or Firms) has been charged or convicted of a criminal offence, he/she/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 hospital which is the subject of the application.

If the Licence Applicant (or any of the persons referred to in P2.1 for Companies, Incorporated Associations, Statutory Bodies or Firms) has ever been investigated for breaches of the Corporations Act 2001 (or any other Act administered by the Australian Securities Investments Commission) or the Trade Practices Act 1974, all details of the investigation and its outcome must be submitted.

If the Licence Applicant (or any of the persons referred to in P2.1 for Companies, Incorporated Associations, Statutory Bodies or Firms) has had referrals or complaints by any professional registration board or association, all details of the referral and/or complaint and its outcome must be declared.



Standard Three MATERIAL AND FINANCIAL RESOURCES

Standard The Licence Applicant/Licence Holder must demonstrate that they possess adequate material and financial resources and financial management expertise to conduct a private hospital.

Relevant Reference Hospitals and Health Services Act 1927, section 26B(2)(c).

Minimum Criteria

- 3.1 The Licence Applicant/Licence Holder must demonstrate evidence of material and financial resources to conduct the private hospital which is the subject of the application.
- 3.2 The Licence Applicant/Licence Holder must demonstrate evidence of insurance and indemnity that is reasonably appropriate to the private hospital which is the subject of the application.

Evidence to be submitted

- P3.1 The Licence Applicant/Licence Holder must submit a written financial reference from its primary financial institution.
- P3.2 The Licence Applicant/Licence Holder must declare that the Licence Applicant/Licence Holder has the material and financial resources to conduct the private hospital which is the subject of the application.
- P3.3 An independent Chartered Accountant or a Certified Practising Accountant must submit a certificate that he/she has examined the financial records and accounts and can certify that the Licence Applicant/Licence Holder has the material and financial resources to conduct the private hospital which is the subject of the application.
- P3.4 In the case of a Licence Applicant/Licence Holder who is an individual, he/she must disclose whether he/she or anyone involved in the management or ownership of the Private Hospital have ever been bankrupt.
- P3.5 In the case of a Licence Applicant/Licence Holder that is a Company, the following information must be declared:
 - has an administrator of the company ever been appointed?
 - has a receiver of property of the company 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?



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- P3.6 In the case of a Licence Applicant/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/Licence Holder that is a Firm with a partnership of two or more persons, a declaration must be made if any one of them has ever been bankrupt.
- P3.8 In the case of a Licence Applicant/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?
- P3.9 The Licence Applicant/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; and
 - workers' compensation or if a self insurer, evidence of that fact.



Standard Four **COMPETENCY**

Standard The Licence Applicant/Licence Holder must demonstrate that they possess the competency to conduct a private hospital.

Relevant Reference Hospitals and Health Services Act 1927, section 26B(2)(d).

Minimum Criteria

- 4.1 The Licence Applicant/Licence Holder must demonstrate that operational management personnel have the necessary skills and qualifications to ensure the viability and safety of the Private Hospital, which is the subject of the application.
- 4.2 The Licence Applicant/Licence Holder must demonstrate that operational management personnel are persons fit to manage and/or control the Private Hospital, which is the subject of the application.
- 4.3 The Licence Applicant/Licence Holder must demonstrate that operational management personnel understand the duties and obligations of governing the Private Hospital, which is the subject of the application.

Evidence to be submitted

P4.1 The Licence Applicant/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 hospital.



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