

31A-8-104 Determination of ability to provide services.

- (1) The commissioner may not issue a certificate of authority to an applicant for a certificate of authority under this chapter unless the commissioner has determined that the applicant has:
 - (a) demonstrated the willingness and potential ability to furnish the proposed health care services in a manner to assure both availability and accessibility of adequate personnel and facilities and continuity of service;
 - (b) arrangements for an ongoing quality of health care assurance program concerning health care processes and outcomes, established in accordance with rules adopted by the director of the Department of Health based upon prevailing standards for quality assurance for other forms of health care delivery in this state; and
 - (c) a procedure, established in accordance with rules of the director of the Department of Health, to develop, compile, evaluate, and report statistics relating to the cost of its operations, the pattern of utilization of its services, the availability and accessibility of its services, and such other matters as may be reasonably required by the director of the Department of Health.
- (2) Upon receipt of an application for a certificate of authority under this chapter, the commissioner shall transmit a copy of the application and accompanying documents to the director of the Department of Health. Upon receipt of the application, the director of the Department of Health shall review the application, investigate the surrounding facts and circumstances, and make a finding concerning whether the applicant satisfies the requirements of Subsection (1). The director of the Department of Health is considered to have found the applicant to comply with Subsection (1) unless he delivers to the commissioner a finding of noncompliance within 90 days after receiving the application from the commissioner.
- (3) In determining whether the requirements of Subsection (1) are satisfied, the commissioner shall rely on the findings of the director of the Department of Health delivered to the commissioner in accordance with Subsection (2).
- (4) A finding of noncompliance with Subsection (1) shall specify in what respects the applicant is deficient in meeting the requirements of Subsection (1).
- (5) An organization's certificate of authority issued under this chapter is conclusive evidence of compliance with Subsection (1), as to the services authorized to be performed under the certificate of authority, except in a proceeding by the state against the organization. Licensing under this chapter does not exempt an organization from any licensing requirement applicable under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

Amended by Chapter 185, 1997 General Session