*** § 4656. General requirements; applicability of laws to assisted living and enhanced assisted living.** 1. No entity shall establish, operate, provide, conduct, or offer assisted living in this state, or hold itself out as an entity which otherwise meets the definition of assisted living or advertise itself as assisted living or by a similar term, without obtaining the approval of the department to operate as an adult care facility pursuant to title two of article seven of the social services law, obtaining the approval of the department as required in this article, and otherwise acting in accordance with this article. Provided however that an entity may simultaneously apply for approval to operate as an adult care facility and as an assisted living residence pursuant to this article. This subdivision shall not apply to assisted living programs approved by the department pursuant to section four hundred sixty-one-l of the social services law.

2. An assisted living operator shall comply with all applicable statutes, rules and regulations required for maintaining a valid operating certificate issued pursuant to title two of article seven of the social services law and shall obtain and maintain all other licenses, permits, registrations, or other governmental approvals required in addition to requirements under this article.

3. Approval for licensure or certification pursuant to this article may be granted only to an applicant who satisfactorily demonstrates:

(a) that such applicant possesses a valid operating certificate to operate as an adult home or enriched housing program pursuant to article seven of the social services law. An applicant that does not currently possess such operating certificate as an adult home or enriched housing program may simultaneously apply and be approved for such certificate and all other licenses and certifications authorized under this article;

(b) that such applicant which has an existing valid adult care facility operating certificate, is in good standing with the department. For purposes of this subdivision, good standing shall mean the applicant has not (i) received any official written notice from the department of a proposed revocation, suspension, denial or limitation on the operating certificate of the facility or residence; (ii) within the previous three years, been assessed a civil penalty after a hearing conducted pursuant

to subparagraph one of paragraph (b) of subdivision seven of section four hundred sixty-d of the social services law for a violation that has not been rectified; (iii) within the previous year, received any official written notice from the department of a proposed assessment of a civil penalty for a violation described in subparagraph two of paragraph (b) of subdivision seven of section four hundred sixty-d of the social services law; (iv) within the previous three years, been issued an order pursuant to subdivision two, five, six, or eight of section four hundred sixty-d of the social services law; (v) within the previous three years, been placed on, and if placed on, removed from the department's "do not refer list" pursuant to subdivision fifteen of section four hundred sixty-d of the social services law. Provided however that in the case of an applicant which otherwise meets the requirements of this section, but is not in good standing as provided in this paragraph, the department may approve said applicant if it determines that the applicant is of good moral character and is competent to operate the residence. Such character and competence review shall be limited to applicants not in good standing pursuant to this paragraph or an applicant subject to paragraph (f) of this subdivision. As part of the review provided pursuant to this paragraph, the department shall, on its webpage, solicit and consider public comment;

(c) that such applicant has adequate financial resources to provide such assisted living as proposed;

(d) that the building, equipment, staff, standards of care and records to be employed in the operation comply with applicable statutes and any applicable local law;

(e) that any license or permit required by law for the operation of such residence has been issued to such operator; and

(f) in the case of an applicant which does not have an existing valid adult care facility operating certificate, such applicant shall otherwise comply with the provisions for certification as prescribed by article seven of the social services law.

4. The department shall develop an expedited review and approval process for applications for up to nine additional beds to an existing enhanced or special needs assisted living certificate qualified as being in good standing under section forty-six hundred fifty-three of this

article.

5. The knowing operation of an assisted living or enhanced assisted living residence without the prior written approval of the department shall be a class A misdemeanor.

6. Every assisted living residence that is required to possess an assisted living residence license shall be licensed on a biennial basis and shall pay a biennial licensure fee. Such fee shall be five hundred dollars per license, with an additional fee of fifty dollars per resident whose annual income is above four hundred percent of the federal poverty level. Such additional fee shall be based on the total occupied beds at the time of application, up to a maximum biennial licensure fee of five thousand dollars. Said fee shall be in addition to the fee charged by the department for certification as an adult care facility. Every assisted living residence that applies for an enhanced assisted living certificate or a special needs assisted living certificate shall pay an additional biennial fee, in addition to any other fee required by this subdivision, in the amount of two thousand dollars, provided that for any residence applying for both an enhanced assisted living certificate and a special needs assisted living certificate the amount of such fee shall be three thousand dollars.

7. (a) All assisted living residences, as defined in subdivision one of section forty-six hundred fifty-one of this article, including those licensed and certified as an assisted living residence, special needs assisted living residence, or enhanced assisted living residence, shall:

(i) report annually on quality measures to be established by the department, in consultation with industry and consumer representatives, including the long-term care ombudsman or their representative, in the form and format prescribed by the department, with the first report due no later than April fifteenth, two thousand twenty-five; and

(ii) post information, including the starting monthly service rate, range for starting rent, approved admission or residency agreement, and a consumer-friendly summary of all service fees, through a reporting system to be developed by the department, in consultation with industry and consumer representatives, that takes into account differences in

licensure and certification, services, agreements and fee structures across facilities. Such information shall be posted in a conspicuous place on the facility's website and in a public space within the facility and shall be made available to the public on forms developed by the department. Beginning on January first, two thousand twenty-five, this information shall also be reported to the department.

(b) The department shall develop a system to score the results of the assisted living quality reporting obtained pursuant to paragraph (a) of this subdivision, in consultation with industry and consumer representatives. Facilities scoring in the top quartile shall be granted the classification of advanced standing on their annual surveillance schedules.

Facilities may remain on advanced standing classification provided they meet the scoring requirements in assisted living quality reporting and until such time when they do not meet such scoring requirements.

(c) Effective April thirtieth, two thousand twenty-five, the department shall post on its website the results of the assisted living quality reporting, collected pursuant to subparagraph (i) of paragraph (a) of this subdivision.

(d) No later than December thirty-first, two thousand twenty-five, the department shall report to the legislature on the development of a quality scoring system for adult care facilities, including adult homes and enriched housing providers. Such report shall examine the specific quality measures recommended and a process for information collection.

8. (a) Assisted living residences, as defined in subdivision one of section forty-six hundred fifty-one of this article, including those licensed and certified as an assisted living residence, special needs assisted living residence, or enhanced assisted living residence, may seek accreditation by agencies determined by the commissioner.

(b) Such accreditation agencies shall report data and information, in a manner and form as determined by the department, pertaining to those assisted living residences accredited by such agencies, and those assisted living residences which obtain but lose such accreditation.

9. The requirements of this article shall be in addition to those

required of an adult care facility. In the event of a conflict between any provision of this article and a provision of article seven of the social services law or a regulation adopted thereunder, the applicable provision of this article or the applicable regulation shall supersede article seven of the social services law or the applicable regulation thereunder to the extent of such conflict.

10. The assisted living operator shall not use deceptive or coercive marketing practices to encourage residents or potential residents to sign or reauthorize the residency agreement required pursuant to section four thousand six hundred fifty-eight of this article.

* NB There are 2 § 4656's