

§ 58-64A-285. Hazardous condition.

The Commissioner may consider any of the following standards to determine whether a provider is in a hazardous condition:

- (1) Whether the provider is impaired or insolvent.
- (2) Adverse findings reported in examination reports, audit financial statements, and actuarial opinions, reports, or summaries.
- (3) Whether the provider has failed to establish, maintain, or has substantially depleted the operating reserve required by this Article.
- (4) Whether the provider is contractually past due on entrance fee refunds.
- (5) The age and collectability of receivables.
- (6) Whether a related party is impaired, insolvent, bankrupt, or threatened with insolvency or bankruptcy, or delinquent in payment of its monetary or any other obligations and which in the opinion of the Commissioner may affect the solvency of the provider.
- (7) Whether the provider, or any obligated group that the provider is a part of, is not in compliance with any covenant contained in any debt agreement.
- (8) Whether the provider is aware of any existing circumstances which would hinder or cause the provider, or any member of an obligated group that the applicant or provider is a part of, to not be able to perform on any debt agreement.
- (9) Contingent liabilities, pledges, or guaranties that either individually or collectively involve a total amount that in the Commissioner's opinion may affect a provider's solvency.
- (10) Whether the management of a provider, including officers, directors, or any other person who directly or indirectly controls the operations of an applicant, provider, or continuing care retirement community, fails to possess and demonstrate the competence, experience, or integrity considered by the Commissioner to be necessary to serve the provider or continuing care retirement community in that position.
- (11) Whether the management of a provider has failed to respond to the Commissioner's inquiries about the condition of the applicant or provider or has furnished false and misleading information in response to an inquiry by the Commissioner.
- (12) Whether the applicant or provider has failed to meet financial, disclosure statement, or other filing requirements in the absence of a reason satisfactory to the Commissioner.
- (13) Whether the management of an applicant or provider has filed any false or misleading financial statement, has released a false or misleading financial statement to a lending institution or to the general public, or has made a false or misleading entry or omitted an entry of material amount in the applicant's or provider's books.
- (14) Whether the applicant or provider has experienced or will experience in the foreseeable future cash flow or liquidity problems.
- (15) Any other finding determined by the Commissioner to be hazardous to the applicant's or provider's depositors, residents, creditors, or the general public. (2025-58, s. 2.)