**Section 326.130 Self-Guarantee as a Financial Assurance Arrangement**

a) Except as provided in subsection (b) of this Section, each licensee electing to use self-guarantee as a financial assurance arrangement shall be subject to the following requirements:

1) The company shall not have a parent company holding majority control of its voting stock.

2) The company shall have at least one class of equity securities registered under the Securities Exchange Act of 1934.

3) The company shall submit a financial test, independently audited financial statements and other documents demonstrating that it passes the financial tests prescribed in Section 326.140 of this Part. At a minimum, documentation shall include the following:

A) A self-guarantee, as described in Appendix E of this Part, signed by the company's chief executive officer;

B) A letter, as described in Appendix E of this Part, from the company's chief executive officer;

C) A letter, as described in Appendix E of this Part, from the company's chief financial officer demonstrating that the company passes the financial tests specified in Section 326.140 of this Part;

D) The company's audited financial statements for the most recently completed fiscal year, including an independent auditor's report on the financial statements; and

E) An independent auditor's special report, as described in Appendix E of this Part, stating that the certified public accountant has compared the amounts specified in the chief financial officer's letter with corresponding amounts in the audited year-end financial statements, and found no reason to believe that the amounts in the letter from the chief financial officer need to be adjusted.

4) The company's independent certified public accountant shall have compared the data used by the company in the financial test, which is required to be derived from the independently audited year end financial statements for the latest fiscal year, with the amounts in such financial statement. In connection with that procedure, the company shall inform the Agency within 90 days of any matters coming to the attention of the auditor that cause the auditor to believe that the data specified in the financial test should be adjusted and that the licensee no longer passes the test.

5) For commercial companies that issue bonds, the licensee shall provide notice in writing to the Agency within 20 days after publication of a change by the rating service if, at any time, the company's most recent bond issuance ceases to be rated in any category of "A" or above by either Standard and Poor's or Moody's. If the company's most recent bond issuance ceases to be rated in any category A or above by both Standard and Poor's and Moody's, the licensee no longer meets the requirement of Section 326.140(a) of this Part. The licensee shall secure replacement financial assurance arrangements in accordance with Section 326.170 of this Part.

6) After the initial financial test, the company shall repeat passage of the test within 90 days after the close of each succeeding fiscal year, and provide the documents specified in subsection (a)(3) of this Section.

7) If the licensee no longer meets the requirements of the applicable financial tests in Section 326.140 of this Part, the licensee shall send notice to the Agency of its intent to establish alternative financial assurance. The notice shall be sent by certified mail, return receipt requested, within 90 days after the end of the fiscal year for which the year end financial data demonstrates that the licensee no longer meets the financial test requirements. The licensee shall secure alternative financial assurance within 120 days after the end of such fiscal year.

8) The guarantee shall remain in force unless the licensee sends notice of cancellation by certified mail, return receipt requested, to the Agency. Cancellation shall not occur until either a replacement financial assurance arrangement is submitted and approved by the Agency or the Agency confirms that the licensee has performed reclaiming in accordance with 32 Ill. Adm. Code 330.

9) The guarantee and financial test provisions specified in Section 326.140 of this Part shall remain in effect until the Agency has terminated the license, or until a replacement financial assurance arrangement is accepted by the Agency in accordance with Section 326.170 of this Part.

b) In lieu of the requirements in subsection (a) of this Section, a hospital seeking to use self-guarantee as a financial assurance arrangement may satisfy the following requirements:

1) The hospital shall submit a financial test, independently audited financial statements, and other documents demonstrating that it passes the financial tests prescribed in Section 326.140(c) of this Part. At a minimum, documentation shall include the following:

A) A self-guarantee, as described in Appendix E, signed by the chief executive officer of the hospital;

B) A letter, as described in Appendix E, from the hospital's chief executive officer;

C) A letter, as described in Appendix E, from the hospital's chief financial officer, demonstrating that the hospital passes the financial tests specified in Section 326.140(c) of this Part;

D) The hospital's audited financial statements for the most recently completed fiscal year, including an independent auditor's report on the financial statements;

E) An independent auditor's special report, as described in Appendix E of this Part, stating that the certified public accountant has compared the amounts specified in the chief financial officer's letter with the corresponding amounts in the audited year-end financial statements, and found no reason to believe that the amounts in the letter from the chief financial officer need to be adjusted.

2) The hospital's independent certified public accountant shall have compared the data used by the licensee in the financial test, which is required to be derived from the independently audited year end financial statements for the latest fiscal year, with the amounts in such financial statement. In connection with that procedure, the licensee shall inform the Agency within 90 days of any matters coming to the attention of the auditor that cause the auditor to believe that the data specified in the financial test should be adjusted and that the licensee no longer passes the test.

3) For hospitals that issue bonds, if at any time the hospital's most recent bond issuance ceases to be rated in any category of "A" or above by either Standard and Poor's or Moody's, the licensee shall provide notice in writing to the Agency within 20 days after publication of a change by the rating service. If the hospital's most recent bond issuance ceases to be rated in any category A or above by both Standard and Poor's and Moody's, the licensee no longer meets the requirements of Section 326.140(b) of this Part. The licensee shall secure replacement financial assurance arrangements in accordance with Section 326.170 of this Part.

4) After the initial financial test, the hospital shall, within 90 days after the close of each succeeding fiscal year, repeat passage of the test and provide the documents specified in subsection (b)(1) of this Section.

5) If the hospital no longer meets the requirements of the applicable financial tests in Section 326.140(c) of this Part, the licensee shall send notice to the Agency of its intent to establish alternative financial assurance as specified in Section 326.170 of this Part. The notice shall be sent by certified mail, return receipt requested, within 90 days after the end of the fiscal year for which the year end financial data demonstrates that the license no longer meets the financial test requirements. The licensee shall secure alternative financial assurance within 120 days after the end of that fiscal year.

6) The guarantee shall remain in force unless the licensee sends notice of cancellation by certified mail, return receipt requested, to the Agency. Cancellation shall not occur until either a replacement financial assurance arrangement is submitted in accordance with Section 326.170 of this Part or the Agency confirms that the licensee has performed reclaiming in accordance with 32 Ill. Adm. Code 330.

7) The guarantee and financial test provisions specified in Section 326.140(b) of this Part shall remain in effect until the Agency has terminated the license or until a replacement financial assurance arrangement is accepted by the Agency in accordance with Section 326.170 of this Part.

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)