

10A NCAC 13B .3107 DENIAL, AMENDMENT OR REVOCATION OF LICENSE

(a) The Department may deny any licensure application upon becoming aware that the applicant is not in compliance with any applicable provision of the Certificate of Need law located in G.S. 131E, Article 9 and the rules adopted under that law.

(b) The Department may amend a license by reducing it from a full license to a provisional license whenever the Department finds that:

- (1) the licensee has failed to comply with the provisions of G.S. 131E, Article 5 and the rules promulgated under that article;
- (2) there is a probability that the licensee can remedy the licensure deficiencies within a length of time not to exceed the expiration date on the license; and
- (3) there is a probability that the licensee will be able thereafter to remain in compliance with the hospital licensure rules for the foreseeable future.

(c) The Department shall also amend a license to provisional status by specifically prohibiting a licensee from providing certain services, for which it has been found to be out of compliance with G.S. 131E, Articles 5 or 9. In all cases the Department shall give the licensee written notice of the amendment of the license. This notice shall be given by registered or certified mail or by personal service and shall set forth:

- (1) the length of the provisional license;
- (2) the factual allegations;
- (3) the statutes and rules alleged to be violated; and
- (4) notice of the facility's right to a contested case hearing on the amendment of the license.

(d) The provisional license shall be effective immediately upon its receipt by the licensee and shall be posted in a prominent location, accessible to public view, within the licensed premises in lieu of the full license. The provisional license shall remain in effect until:

- (1) the Department restores the licensee to full licensure status;
- (2) the Department revokes the licensee's license; or
- (3) the end of the licensee's licensure period. If a licensee has a provisional license at the time that the licensee submits a renewal application, the license, if renewed, shall also be a provisional license unless the Department determines that the licensee can be returned to full licensure status. A decision to issue a provisional license is stayed during the pendency of an administrative appeal and the licensee may continue to display its full license during the appeal.

(e) The Department shall revoke a license whenever:

- (1) The Department finds that:
 - (A) the licensee has failed to comply with the provisions of G.S. 131E, Article 5 and the rules promulgated under that article; and
 - (B) it is not probable that the licensee can remedy the licensure deficiencies within a length of time acceptable to the Department; or
- (2) The Department finds that:
 - (A) The licensee has failed to comply with the provisions of G.S. 131E, Article 5; and
 - (B) although the licensee may be able to remedy the deficiencies within a reasonable time, it is not probable that the licensee will be able to remain in compliance with hospital licensure rules for the foreseeable future; or
- (3) The Department finds that the licensee has failed to comply with any of the provisions of G.S. 131E, Article 5 and the rules promulgated thereunder that endangers the health, safety or welfare of the patients in the facility.

The issuance of a provisional license is not a procedural prerequisite to the revocation of a license pursuant to Subparagraphs (e)(1), (2) or (3) of this Rule.

*History Note: Authority G.S. 131E-79;
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2017.*