

SECTION .0200 – DENIAL: AMENDMENT: SUSPENSION: REVOCATION

10A NCAC 70L .0201 DENIAL, AMENDMENT, SUSPENSION AND REVOCATION

(a) Denial: The North Carolina Department of Health and Human Services, Division of Social Services, is the licensing authority and shall deny a license at any time for failure to comply with licensing rules adopted pursuant to G.S. 131D, Article 1A or for operating in a manner that threatens the health, safety or well being of individuals in the facility or served by the agency. In addition, the licensing authority may deny an application based on a determination that:

- (1) the applicant is not in compliance with rules promulgated under G.S. 131D for the facility or agency which the applicant is seeking licensure;
- (2) the licensing authority has initiated revocation or summary suspension proceedings against any facility or agency licensed pursuant to G.S. 122C, Article 2, G.S. 131D, Articles 1 or 1A, or G.S. 110, Article 7, which was previously held by the applicant and the applicant voluntarily relinquished the license;
- (3) there is a pending appeal of a denial, revocation or summary suspension of any facility or agency licensed pursuant to G.S. 122C, Article 2, G.S. 131D, Articles 1 or 1A, or G.S. 110, Article 7, which is owned by the applicant;
- (4) the applicant has an individual as part of their governing body or management who previously held a license which was revoked or summarily suspended under G.S. 122C, Article 2, G.S. 131D, Articles 1 or 1A and G.S. 110, Article 7 and the rules adopted under these laws; or
- (5) the applicant is an individual who has a finding or pending investigation by the Health Care Professional Registry in accordance with G.S. 131E-256.

(b) Notice: When an application for license of a new facility or agency is denied the following applies:

- (1) Pursuant to G.S. 150B-22, the applicant shall be given an informal opportunity to provide reasons why the license should be issued.
- (2) The licensing authority shall give the applicant written notice of the denial, the reasons for the denial and advise the applicant of the right to request a contested case hearing pursuant to G.S. 150B.
- (3) The facility or agency shall not operate until a decision is made to issue a license, despite an appeal action.

(c) Amendment: The licensing authority may amend a license to indicate a provisional status whenever the licensing authority determines there are violations of rules, but the violations do not pose an immediate threat to the health, safety or welfare of the clients served. The following applies to provisional status:

- (1) Provisional status shall be approved for not less than 30 days and not more than six months.
- (2) Provisional status shall be effective immediately upon notice to the licensee and must be posted in a prominent location, accessible to public view, within the licensed premises.
- (3) The facility shall inform each client residing or receiving services from the facility or their legally responsible person concerning the facility's provisional status.
- (4) A regular license shall be issued when a facility is determined by the licensing authority to be in compliance with applicable rules.
- (5) If a facility fails to comply with the rules within the time frame for the provisional status, the license shall automatically terminate on the expiration date of the provisional status.
- (6) If a licensee has a provisional status at the time that the licensee submits a renewal application, the license, if renewed, shall also be of a provisional status unless the licensing authority determines that the violations have been corrected.
- (7) A decision to issue a provisional status shall be stayed during the period of an appeal as specified in 10A NCAC 70L .0301 and the licensee may continue to display its license during the appeal.

(d) Summary Suspension: The following applies to summary suspension:

- (1) The licensing authority shall issue an order of summary suspension and include the findings in its order if it finds that the public health, safety or welfare considerations require emergency action.
- (2) The licensing authority shall suspend only those services as necessary to protect the public interest. An order of summary suspension shall be effective on the date specified in the order or on the date of service of the order at the last known address of the licensee, whichever is later.
- (3) The licensee may contest the order by requesting a contested case hearing pursuant to G.S. 150B and 10A NCAC 70L .0301. The order for summary suspension shall be in full force and effect during any contested case hearing.

(4) The order may set a date by which the licensee shall remove the cause for emergency action. If the licensee fails to meet that deadline, the licensing authority may revoke or amend the facility's license.

(e) Revocation: The licensing authority shall revoke a license at any time for failure to comply with rules adopted pursuant to G.S. 131D, Article 1A or for operating in a manner that threatens the health, safety or well being of individuals in the facility or served by the agency. Revocation of licensure by the licensing authority shall be affected by mailing to the applicant or license holder, by certified mail, a notice setting forth the particular reasons for such action. A revocation shall become effective 60 days after the mailing of the notice absent a petition as specified in 10A NCAC 70L .0301. In the event of a petition for a contested case hearing a revocation shall not become effective until a final decision is made in the contested case hearing.

History Note: Authority G.S. 131D-10.5; 131D-10.6; 131D-10.9; 143B-153; 150B-22; 150B-23;
Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.