

10A NCAC 27G .0405 LICENSE DENIAL, AMENDMENT OR REVOCATION

(a) Denial: DHSR may deny an application for license based on the determination that:

- (1) the applicant is not in compliance with rules promulgated under G.S. 122C, for the facility which the applicant is seeking licensure;
- (2) the applicant is not in compliance with applicable provisions of the Certificate of Need law under G.S. 131E, Article 9 and rules adopted under that law for the facility which the applicant is seeking licensure;
- (3) the Department has initiated revocation or summary suspension proceedings against any facility 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;
- (4) there is a pending appeal of a denial, revocation or summary suspension of any facility 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;
- (5) the applicant has an individual as part of their governing body or management who previously held a license which was revoked or summarily suspended under G.S. 122C, Article 2, G.S. 131D, Articles 1 or 1A and G.S. 110, Article 7 and the rules adopted under these laws; or
- (6) the applicant is an individual who has a finding or pending investigation by the Health Care Personnel Registry in accordance with G.S. 131E-256.

(b) Notice: When an application for license of a new facility is denied:

- (1) pursuant to G.S. 150B-22, the applicant shall be given an informal opportunity to provide reasons why the license should be issued or the matter otherwise settled;
- (2) DHSR 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; and
- (3) the facility shall not operate until a decision is made to issue a license, despite an appeal action.

(c) Amendment: DHSR may amend a license to indicate a provisional status whenever DHSR 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 DHSR 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 DHSR determines that the violations have been corrected.
- (7) A decision to issue a provisional status shall be stayed during the period of an appeal and the licensee may continue to display its license during the appeal.

(d) Revocation: DHSR shall revoke a license whenever it finds:

- (1) there has been failure to comply with G.S. 122C;
- (2) there has been failure to comply with rules promulgated under G.S. 122C; and
- (3) such failure to comply endangers the health, safety or welfare of the individuals in the facility.

Except for summary suspensions which are governed by Paragraph (e) of this Rule, DHSR shall give the licensee written notice of intent to revoke and the reasons for the proposed action, and the right to request a contested case hearing pursuant to G.S. 150B. If the licensee petitions for a hearing, the revocation shall not take effect until completion of the contested case process, otherwise it shall be effective as specified by DHSR in its revocation order.

(e) Summary Suspension:

- (1) Should DHSR find that public health, safety or welfare considerations require emergency action, DHSR shall issue an order of summary suspension and include the findings in its order.
- (2) DHSR 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. 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 the emergency action. If the licensee fails to meet that deadline, DHSR may revoke or amend the facility's license.

*History Note: Authority G.S. 122C-23; 122C-24; 122C-26; 122C-27; 122C-12.1; 143B-147; 150B-3; 150B-12(a); 150B-23(a)(f); 150B-45;
Eff. May 1, 1996;
Amended Eff. July 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019;
Amended Eff. September 1, 2021.*