

§ 110-90. Powers and duties of Secretary of Health and Human Services.

The Secretary shall have the following powers and duties under the policies and rules of the Commission:

- (1) To administer the licensing program for child care facilities.
- (1a) To establish a fee for the licensing of child care facilities. The fee does not apply to a religious-sponsored child care facility operated pursuant to a letter of compliance. The amount of the fee may not exceed the amount listed in this subdivision.

| Capacity of Facility | Maximum Fee |
|-----------------------------|--------------------|
| 12 or fewer children | \$ 52.00 |
| 13-50 children | \$187.00 |
| 51-100 children | \$375.00 |
| 101 or more children | \$600.00 |

- (2) To obtain and coordinate the necessary services from other State departments and units of local government which are necessary to implement the provisions of this Article.
- (3) To employ the administrative personnel and staff as may be necessary to implement this Article where required services, inspections or reports are not available from existing State agencies and units of local government.
- (4) To issue a rated license to any child care facility which meets the standards established by this Article. The rating shall be based on the following:
 - a. Before January 1, 2008, for any child care facility currently holding a license of two to five stars, the rating shall be based on program standards, education levels of staff, and compliance history of the child care facility. By January 1, 2008, the rating shall be based on program standards and education levels of staff.
 - b. Effective January 1, 2006, for any new license issued to a child care facility with a rating of two to five stars, the rating shall be based on program standards and education levels of staff.
 - c. By January 1, 2008, for any child care facility to maintain a license or Notice of Compliance, the child care facility shall have a compliance history of at least seventy-five percent (75%), as assessed by the Department. When a child care facility fails to maintain a compliance history of at least seventy-five percent (75%) for the past 18 months or during the length of time the facility has operated, whichever is less, as assessed by the Department, the Department may issue a provisional license or Notice of Compliance.
 - d. Effective January 1, 2006, for any new license or Notice of Compliance issued to a child care facility, the facility shall maintain a compliance history of at least seventy-five percent (75%), as assessed by the Department. When a child care facility fails to maintain a compliance history of at least seventy-five percent (75%) for the past 18 months or during the length of time the facility has operated, whichever is less, as assessed by the Department, the Department may issue a provisional license or Notice of Compliance.
 - e. The Department shall provide additional opportunities for child care providers to earn points for program standards and education levels of staff.

- (5) To revoke the license of any child care facility that ceases to meet the standards established by this Article and rules on these standards adopted by the Commission, or that demonstrates a pattern of noncompliance with this Article or the rules, or to deny a license to any applicant that fails to meet the standards or the rules. These revocations and denials shall be done in accordance with the procedures set out in G.S. 150B and this Article and rules adopted by the Commission.
- (6) To prosecute or defend on behalf of the State, through the office of the Attorney General, any legal actions arising out of the administration or enforcement of this Article.
- (7) To promote and coordinate educational programs and materials for operators of child care facilities which are designed to improve the quality of child care available in the State, using the resources of other State and local agencies and educational institutions where appropriate.
- (8) Repealed by Session Laws 1997-506, s. 5.
- (9) To levy a civil penalty pursuant to G.S. 110-103.1, or an administrative penalty pursuant to G.S. 110-102.2, or to order summary suspension of a license. These actions shall be done in accordance with the procedures set out in G.S. 150B and this Article and rules adopted by the Commission.
- (10) To issue final agency decisions in all G.S. 150B contested cases proceedings filed as a result of actions taken under this Article including, but not limited to the denial, revocation, or suspension of a license or the levying of a civil or administrative penalty.
- (11) To issue a license to any child care arrangement that does not meet the definition of child care facility in G.S. 110-86 whenever the operator of the arrangement chooses to comply with the requirements of this Article and the rules adopted by the Commission and voluntarily applies for a child care facility license. The Commission shall adopt rules for the issuance or removal of the licenses.

Notwithstanding any other provision of law, rules adopted by the Commission regarding a public school that voluntarily applies for a child care facility license shall provide that a classroom that meets the standards set out in G.S. 115C-521.1 shall satisfy child care facility licensure requirements as related to the physical classroom. (1971, c. 803, s. 1; 1975, c. 879, s. 15; 1985, c. 757, ss. 155(g), 156(cc), (dd); 1987, c. 788, s. 4; c. 827, s. 233; 1991, c. 273, s. 3; 1993, c. 185, s. 2; 1997-443, s. 11A.118(a); 1997-506, s. 5; 2003-284, s. 34.12(a); 2005-36, s. 1; 2009-123, s. 2; 2009-451, s. 10.11.)