§ 131D-2.4. Licensure of adult care homes for aged and disabled individuals; impact of prior violations on licensure; compliance history review; license renewal.

(a) Licensure. – Except for those facilities exempt under G.S. 131D-2.3, the Department of Health and Human Services shall inspect and license all adult care homes. The Department shall issue a license for a facility not currently licensed as an adult care home for a period of six months. If the licensee demonstrates substantial compliance with Articles 1 and 3 of this Chapter and rules adopted thereunder, the Department shall issue a license for the balance of the calendar year. A facility not currently licensed as an adult care home that was licensed as an adult care home within the preceding 12 months is considered an existing health service facility for the purposes of G.S. 131E-184(a)(8).

(b) Compliance History Review. – Prior to issuing a new license or renewing an existing license, the Department shall conduct a compliance history review of the facility and its principals and affiliates. The Department may refuse to license a facility when the compliance history review shows a pattern of noncompliance with State law by the facility or its principals or affiliates, or otherwise demonstrates disregard for the health, safety, and welfare of residents in current or past facilities. The Department shall require compliance history information and make its determination according to rules adopted by the Medical Care Commission.

(c) Prior Violations. – No new license shall be issued for any adult care home to an applicant for licensure under any of the following circumstances for the period of time indicated:

(1) Was the owner, principal, or affiliate of a licensable facility under this Chapter, Chapter 122C, or Article 7 of Chapter 110 of the General Statutes and was responsible for the operation of the facility that had its license revoked until five years after the date the revocation became effective.

(1a) Was the owner, principal, or affiliate of a licensable facility under this Chapter, Chapter 122C, or Article 7 of Chapter 110 of the General Statutes and was responsible for the operation of the facility that had its license summarily suspended until five years after the date the suspension was lifted or terminated.

(2) Is the owner, principal, or affiliate of an adult care home and is responsible for the operation of the facility that was assessed a penalty for a Type A or Type B violation until the earlier of one year from the date the penalty was assessed or until the home has substantially complied with the correction plan established pursuant to G.S. 131D-34 and substantial compliance has been certified by the Department.

(3) Is the owner, principal, or affiliate of an adult care home and is responsible for the operation of the facility that had its license downgraded to provisional status or had its admissions suspended as a result of violations under this Article, Chapter 122C, or Article 7 of Chapter 110 of the General Statutes until six months from the date of restoration from provisional to full licensure, termination of the provisional license, or lifting or termination of the suspension of admissions, as applicable.

(4) Repealed by Session Laws 2017-184, s. 1, effective October 1, 2017.

(5) Is or was the owner, principal, or affilate of an adult care home and is responsible for the operation of the facility where outstanding fees, fines, and penalties imposed by the State against the facility have not been paid. Fines and penalties for which an appeal is pending are exempt from consideration under this subdivision.

An applicant for new licensure may appeal a denial of certification of substantial compliance under subdivision (2) of this subsection by filing with the Department a request for review by the Secretary within 10 days of the date of denial of the certification. Within 10 days of receipt of the request for review, the Secretary shall issue to the applicant a written determination that either denies certification of substantial compliance or certifies substantial compliance. The decision of the Secretary is final.

(d) License Renewals. – License renewals shall be valid for one year from the date of renewal unless revoked earlier by the Secretary for failure to comply with any part of this section or any rules adopted hereunder. Licenses shall be renewed annually upon filing and the Department's approval of the renewal application. The Department shall not renew a license if outstanding fees, fines, and penalties imposed by the State against the home have not been paid. Fines and penalties for which an appeal is pending are exempt from consideration. The renewal application shall contain all necessary and reasonable information that the Department may require.

(e) In order for an adult care home to maintain its license, it shall not hinder or interfere with the proper performance of duty of a lawfully appointed community advisory committee, as defined by G.S. 131D-31 and G.S. 131D-32.

(f) The Department shall not issue a new license for a change of ownership of an adult care home if outstanding fees, fines, and penalties imposed by the State against the home have not been paid. Fines and penalties for which an appeal is pending are exempt from consideration. The consent of the current licensee is not a required prerequisite to a change of ownership of an adult care home if the current licensee has (i) been removed from the facility pursuant to Articles 3 and 7 of Chapter 42 of the General Statutes or (ii) abandoned the facility, as determined by the Department's reasonable discretion.

(g) Any applicant for licensure who wishes to contest the denial of a license is entitled to an administrative hearing as provided in Chapter 150B of the General Statutes. The applicant shall file a petition for a contested case within 30 days after the date the Department mails a written notice of the denial to the applicant. (2009-462, s. 1(e); 2017-184, s. 1.)