§ 131D-2.7. Provisional license; license revocation; summary suspension of license; suspension of admission.

(a) Provisional License. – Except as otherwise provided in this section, the Department may amend a license by reducing it from a full license to a provisional license for a period of not more than 90 days whenever the Department finds that:

(1) The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of this Chapter and the rules adopted pursuant to these Articles;

(2) There is a reasonable probability that the licensee can remedy the licensure deficiencies within a reasonable length of time; and

(3) There is a reasonable probability that the licensee will be able thereafter to remain in compliance with the licensure rules for the foreseeable future.

The Department may extend a provisional license for not more than one additional 90-day period upon finding that the licensee has made substantial progress toward remedying the licensure deficiencies that caused the license to be reduced to provisional status.

The Department also may issue a provisional license to a facility, pursuant to rules adopted by the Medical Care Commission, for substantial failure to comply with the provisions of this section or rules adopted pursuant to this section. Any facility wishing to contest the issuance of a provisional license shall be entitled to an administrative hearing as provided in the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 30 days after the Department mails written notice of the issuance of the provisional license.

(b) License Revocation. – The Department may revoke a license whenever:

(1) The Department finds that:

a. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of this Chapter and the rules adopted pursuant to these Articles; and

b. It is not reasonably probable that the licensee can remedy the licensure deficiencies within a reasonable length of time; or

(2) The Department finds that:

a. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of this Chapter and the rules adopted pursuant to these Articles; and

b. Although the licensee may be able to remedy the deficiencies within a reasonable time, it is not reasonably probable that the licensee will be able to remain in compliance with licensure rules for the foreseeable future; or

c. The licensee has failed to comply with the provisions of Articles 1 and 3 of this Chapter and the rules adopted pursuant to these Articles, and the failure to comply endangered the health, safety, or welfare of the patients in the facility.

(c) Summary Suspension. – The Department may summarily suspend a license pursuant to G.S. 150B-3(c) whenever it finds substantial evidence of abuse, neglect, exploitation, or any condition which presents an imminent danger to the health and safety of any resident of the home. Any facility wishing to contest summary suspension of a license shall be entitled to an administrative hearing as provided in the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 20 days after the Department mails a notice of summary suspension to the licensee.

(d) Suspension of Admissions.

(1) In addition to the administrative penalties described in this Article, the Secretary may suspend the admission of any new residents to an adult care home where the conditions of the adult care home are detrimental to the health or safety of the residents. This suspension shall be for the period determined by the Secretary and shall remain in effect until the Secretary is satisfied that conditions or circumstances merit removing the suspension.

(2) In imposing a suspension under this section, the Secretary shall consider the following factors:
   a. The degree of sanctions necessary to ensure compliance with this section and rules adopted hereunder; and
   b. The character and degree of impact of the conditions at the home on the health or safety of its residents.

(3) The Secretary of Health and Human Services shall adopt rules to implement this section.

(4) Any facility wishing to contest a suspension of admissions shall be entitled to an administrative hearing as provided in the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 20 days after the Department mails a notice of suspension of admissions to the licensee. (2009-462, s. 1(e).)