

CHAPTER 3

LOSS OF, RENEWAL OF, TEMPORARY & CONDITIONAL LICENSES

3.A. Refusal to Issue a License

The Department shall refuse to issue a license to the applicant covering the premises identified in the application, if it finds the representation made in the application to be materially incorrect or insufficient, or if it finds that the applicant, the premises, or the designated administrator of the facility do not meet all requirements of law and regulations. Any person who is aggrieved by the decision of the Department in refusing to issue a license or the renewal of a license, may file a statement or complaint with the Administrative Court designated in Title 5, Chapter 375 M.R.S.A., Section 8001 et. seq.

3.B. Right of Entry and Inspection

The Department and any duly designated representative thereof shall have the right to enter upon and into the premises of any facility licensed pursuant to these rules and regulations at any time, without threat of injury, verbal abuse or harassment, in order to determine the state of compliance with the provisions of rules and regulations in force pursuant thereto. Such right of entry and inspection shall extend to any premises which the Department has reason to believe are being operated or maintained as a health care facility without a license, but no such entry or inspection of any premises shall be made without the permission of the owner or person in charge thereof, unless a warrant is first obtained from the court of jurisdiction authorizing the same. Any application for a license made pursuant to these rules and regulations shall constitute permission for, and complete acquiescence in, any entry or inspection of the premises for which the license is sought in order to facilitate verification of the information submitted on or in connection with such application. (Title 22, Section 1820-A)

3.C. Renewal of License

At least twenty (20) days prior to the expiration of a license to operate a facility, an application and the required fee for a renewal thereof shall be submitted to the Department on a form approved by the Department, and accompanied by such additional information as may be required. Upon receipt and review of applications and determination of compliance with the requirements of the State Statutes and any rules and regulations adopted pursuant thereto, the Department shall renew such license for a period of one year, unless it finds that there are specific and sufficient grounds either for the denial of the application for renewal or for renewing the license on a temporary or conditional basis.

3.D. Temporary or Conditional License

If the Department finds that the immediate interests of the residents in a licensed facility and the interest of the general public would be best served by offering such facility the opportunity to correct a condition forming the grounds for revocation of, or refusal to renew a license, it may afford such opportunity. For such purposes, it may issue a temporary or conditional license in accordance with Title 22, Section 1817.

3.E. Suspension or Revocation of License

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The Department may, in addition to any other rights or remedies which it may have, file a statement or complaint with the Administrative Court designated in Title 5, Chapter 375 M.R.S.A., Sections 8001 et. seq., requesting suspension or revocation of any license on the following grounds: Violation of Title 22, M.R.S.A., Maine, 1964, or the rules and regulations issued pursuant thereto; permitting, aiding or abetting the commission of any illegal act in such institutions; conduct of practices detrimental to the welfare of the residents or any other violation of applicable law or regulation. Upon suspension or revocation of a license, the license shall be immediately surrendered to the Department. The Department may set forth the conditions which shall be met by the facility to the satisfaction of the Department. (See Chapter 22)

3.F. Emergency Suspension

Whenever, on inspection by the Department, conditions are found to exist which violate this chapter or departmental regulation issued thereunder which, in the opinion of the Court, immediately endanger the health or safety of patients, or both such health or safety, in any of such institutions to such an extent as to create an emergency, the Department by its duly authorized agents, may suspend said license until such time as the Department determines that the emergency no longer exists or until a decision is rendered by the Administrative Court. The Department shall give written notice of such emergency suspension by delivering notice in hand to the licensee. If the licensee cannot be reached for personal service, the notice may be left at the licensed premises with a licensed staff person. Whenever a license is suspended by the Department under this emergency provision, the Department shall file a complaint with the Administrative Court requesting suspension or revocation of such license. (See Chapter 22)

3.G. Public Notice

If the license is revoked or suspended, or a conditional license is voided, the Department will advise the public of such action. The notice to the public will be in the form of a paid legal notice in the local newspaper(s), published within fifteen (15) days following the termination, suspension or revocation of the license.

3.H. Involuntary Closing of a Licensed Facility

If the license is revoked or suspended, or a conditional license is voided, or the Department refuses to issue or renew a license, the facility shall, in consultation with the Department, make appropriate arrangements for the orderly transfer of all residents.

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3.I. Voluntary Closing of a Licensed Facility

Whenever a licensed facility voluntarily discontinues operation, the facility shall notify the Department, and during the period when it is preparing for such discontinuance, the facility shall inform the resident, the next of kin, legal representative or agency acting on the resident's behalf of the fact and the proposed time of such discontinuance, with at least thirty (30) days notice so that suitable arrangements may be made for the orderly transfer and care of such resident. In the case of any resident who has no person acting on his/her behalf, the facility shall be responsible for assisting such resident to arrange for a suitable transfer prior to the discontinuance of operation. Immediately upon discontinuance of operation of a licensed facility, the owner shall surrender the license to the Department.