

**He-P 803.13 Enforcement Actions and Hearings.**

(a) At the time of imposing a fine, or denying, revoking or suspending a license, the department shall send to the applicant or licensee a written notice that sets forth:

- (1) The reasons for the proposed action;
- (2) The action to be taken by the department; and
- (3) The right of an applicant or licensee to a hearing in accordance with RSA 151:8 or RSA 541-A:30, III, as applicable before the enforcement action becomes final.

(b) The department shall deny an application or revoke a license if:

- (1) An applicant or a licensee has violated provisions of RSA 151 or He-P 803, which violations have the potential to harm a resident's health, safety or well-being;
- (2) An applicant or a licensee has failed to pay a fine imposed under administrative remedies;
- (3) An applicant or a licensee has had a check returned to the department for insufficient funds and has not re-submitted the outstanding fee in the form of cash, money order or certified check;
- (4) After being notified of and given an opportunity to supply missing information, an applicant or licensee fails to submit an application that meets the requirements of He-P 803.04;
- (5) An applicant, licensee or any representative or employee of the applicant or licensee:
  - a. Provides false or misleading information to the department;
  - b. Prevents or interferes, or fails to cooperate with any inspection or investigation conducted by the department; or
  - c. Fails to provide requested files or documents to the department;
- (6) The licensee failed to implement or continue to implement a POC that has been accepted or imposed by the department in accordance with He-P 803.12(c), (d) and (e);
- (7) The licensee is cited a third time under RSA 151 or He-P 803 for the same violations within the last 5 inspections;
- (8) A licensee, including corporation officers or board members, has had a license revoked and

submits an application during the 5-year prohibition period specified in (h) below;

(9) Upon inspection, the applicant's premises is not in compliance with RSA 151 or He-P 803;

(10) The department makes a determination that one or more of the factors in He-P 803.05(f) is true; or

(11) The applicant or licensee fails to employ a qualified administrator.

(c) An applicant or licensee shall have 30 days after receipt of the notice of enforcement action to request a hearing to contest the action.

(d) If a written request for a hearing is not made pursuant to (c) above, the action of the department shall become final.

(e) The department shall order the immediate suspension of a license, the cessation of operations, and the transfer of care of residents when it finds that the health, safety or welfare of residents is in jeopardy and

requires emergency action in accordance with RSA 541-A:30, III.

(f) If an immediate suspension is upheld, the licensee shall not resume operating until the department determines through inspection that compliance with RSA 151 and He-P 803 is achieved.

(g) Hearings under this section shall be conducted in accordance with RSA 541-A and He-C 200.

(h) When a nursing home's license has been denied or revoked, the applicant or licensee shall not be eligible to reapply for a license for 5 years, and the action shall be reported to the New Hampshire nursing

home administrator licensing board for investigation and review of the administrator's role if any.

(i) The 5 year period referenced in (h) above shall begin on:

(1) The date of the department's decision to revoke or deny the license, if no request for an administrative hearing is requested; or

(2) The date a final decision upholding the action of the department is issued, if a request for a hearing is made and a hearing is held.

(j) Notwithstanding (h) above, the department shall consider an application submitted after the

decision to revoke or deny becomes final, if the applicant demonstrates that circumstances have changed to

the extent that the department now has good cause to believe that the applicant has the requisite degree of

knowledge, skills and resources necessary to maintain compliance with the provisions of RSA 151 and He-P

803.

(k) RSA 541 shall govern further appeals of department decisions under this section.

(l) No ongoing enforcement action shall preclude the imposition of any remedy available to the department under RSA 151, RSA 541-A:30, III, or He-P 803.

(m) The department shall offer an opportunity for informal dispute resolution to any applicant or licensee who disagrees with a deficiency cited by the department on a statement of findings, provided that the

applicant or licensee submits a written request for an informal dispute resolution.

(n) The informal dispute resolution shall be requested in writing by the applicant, licensee or program director no later than 14 days from the date the statement of findings was issued by the department.

(o) The department shall review the evidence presented and provide a written notice to the applicant or

licensee of its decision.

(p) An informal dispute resolution shall not be available for any applicant or licensee against whom the department has initiated action to suspend, revoke, deny or refuse to issue or renew a license.

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