



COMPLIANCE & ENFORCEMENT POLICY

LICENSING SERVICES

Effective December 1, 2009

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1.0 INTRODUCTION

Facilities are licensed to ensure they provide for the health, safety and overall well-being of the persons who use them. The Licensee is ultimately responsible for ensuring compliance with the relevant legislation at all times. The Licensing Services Unit of the Department of Community Services is responsible for monitoring compliance and enforcement under three statutory licensing systems in the Minister's mandate, the *Children and Family Services Act*, the *Day Care Act* and the *Homes for Special Care Act*. Licenses issued to operate a *Family Home Day Care Agency* are included in this policy. Homes licensed by the Minister of Health under the *Homes for Special Care Act* are not included in this policy.

2.0 POLICY STATEMENT

The purpose of this policy is to provide direction concerning compliance with and enforcement of licenses issued under the authority of the Minister of Community Services pursuant to the *Children and Family Services Act and Regulations*, the *Day Care Act and Regulations* and the *Homes for Special Care Act and Regulations*.

3.0 DEFINITIONS

The following definitions explain terms referred to in this policy.

- a) "Administrative Violations" are one or more violation(s) not defined as "High Priority Violations" but which require attention and monitoring action. These violations include, but are not limited to:
 - 1. Incomplete or inaccurate records
 - 2. Program deficiencies
 - 3. Inadequate environment
 - 4. Parent communication issues
 - 5. Nutrition concerns
- b) "Chronic Non-Compliance" refers to a situation in which a licensee has had three (3) Probationary Licenses in three (3) consecutive years.
- c) "Department" refers to the Nova Scotia Department of Community Services.
- d) "Director" refers to the Director, Licensing Services.
- e) "Facility Director" refers to the person who has primary responsibility for the operations of the licensed facility, and which, for further clarity is the chief administrative officer as described in section 18 of regulations made under the *Children and Family Services Act*, the chief administrative officer as described in sections 20 and 21 of regulations made under *Day*

Care Act, and for the purposes of the *Homes for Special Care Act* refers to the administrator as described in section 19 of its regulations.

- f) “High Priority Violations” are one or more violation(s) of the *Children and Family Services Act and Regulations*, the *Day Care Act and Regulations* and the *Homes for Special Care Act and Regulations* that require immediate attention. The violations include, but are not limited to:
1. One or more regulatory violation(s) involving:
 - Safety of the children, youth and adults at the facility
 - Terms, conditions and restrictions of the License
 - Staffing
 2. Outstanding health inspection requirements
 3. Outstanding fire inspection requirements
- g) “License” refers to the license issued or renewed pursuant to the *Children and Family Services Act*, the *Day Care Act* and the *Homes for Special Care Act*. The license is the physical evidence that permission to operate has been granted.
- h) “Licensee” refers to a person or organization in whose name a license has been issued to operate a facility under the *Children and Family Services Act and Regulations*, the *Day Care Act and Regulations* and the *Homes for Special Care Act and Regulations*.
- i) “Licensing Inspection Report” is the form completed by the Licensing Officers during an inspection. Where necessary, the report lists outstanding requirements and violations with “correct by” dates and it is signed by the Facility Director. A copy is to be posted in a conspicuous location in the facility.
- j) “Licensing Officer” refers to the person who inspects facilities licensed under the *Day Care Act and Regulations*, the *Children and Family Services Act and Regulations* and the *Homes for Special Care Act and Regulations* on behalf of the Minister.
- k) “Minister” refers to the Minister of the Nova Scotia Department of Community Services.
- l) “Probationary License” refers to a license of either one (1) or three (3) months’ duration which is issued with conditions when all of the requirements of a license have not been met.
- m) “Supervisor” refers to the Supervisor, Licensing Services

4.0 OBJECTIVE

Facilities are licensed to ensure they provide for the health, safety and overall well-being of the persons who use them. The Licensee is ultimately responsible for ensuring compliance with the relevant legislation at all times.

5.0 ENTRY AND INSPECTION

To ensure the health, safety and well-being of the children, youth and adults at licensed facilities, a Licensing Officer and/or other authorized Department officials may at any reasonable time:

1. Enter and inspect the facility and examine the premises;
2. Examine the accounts, books and records of the facility;
3. Assess the programs and services of the facility; and
4. Take any reasonable actions necessary to ensure the Licensee is in compliance with the relevant legislation

6.0 ENFORCEMENT

6.1 Administrative Violations: If it is determined through a licensing inspection or a complaint follow-up investigation that Administrative Violations have been identified in a licensed facility, the following process will be implemented:

6.1.1 The Licensing Officer identifies the Administrative Violations and issues to the Facility Director a Licensing Inspection Report identifying the violation(s) and specifying the “correct by” date; the Facility Director must sign and post the Licensing Inspection Report in a conspicuous location in the facility prior to the Licensing Officer leaving the site; a copy of the Licensing Inspection Report is forwarded to the Licensee and the Supervisor by the Licensing Officer;

6.1.2 If upon inspection before or on the “correct by” date the Licensing Officer identifies Administrative Violations, a second Licensing Inspection Report is issued to the Facility Director identifying the violation(s) and specifying a second “correct by” date; the Facility Director must sign and post the Licensing Inspection Report in a conspicuous location in the facility prior to the Licensing Officer leaving the site; a copy of the Licensing Inspection Report is forwarded to the Licensee and the Supervisor by the Licensing Officer;

6.1.3 If upon inspection by the Licensing Officer before or on the second “correct by” date the Administrative Violations have not been corrected, a third Licensing Inspection Report is issued to the Facility Director identifying the violation(s) and specifying a third “correct by” date, as well as specifying that the Licensing Officer is recommending to the Director the issuance of a Probationary License; the Facility Director must sign and post the Licensing Inspection Report in a conspicuous location in the facility prior to the Licensing Officer leaving the site; a copy of the Licensing Inspection Report is forwarded to the Licensee and the Supervisor by the Licensing Officer; the Supervisor will immediately notify the Director

and the Director shall issue to the Licensee a letter containing the outstanding violations and confirming the third “correct by” date and shall inform the Licensee that failure to meet all the requirements by the specified date will result in the Director making a recommendation to the Minister to issue a Probationary License of three (3) month duration; at the end of the three (3) months the License will be cancelled or suspended and the facility will be closed if the outstanding violation(s) is not corrected; a copy of the letter will be send to the Facility Director and must be posted in a conspicuous location in the facility;

6.1.4 If upon inspection by the Licensing Officer, before or on the third “correct by” date, there are outstanding Administrative Violation(s), the Licensing Officer must immediately notify their Supervisor; the Supervisor will notify Director; the Director will inform the Minister and the Minister may issue to the Licensee a Probationary License of three (3) month duration. The Director shall issue to the Licensee a letter containing the outstanding violations and specifying a fourth “correct by” date two (2) weeks before the expiry of the Probationary License and shall inform the Licensee that failure to meet all the requirements by the specified date will result in the Director making a recommendation to the Minister to cancel or suspend the License and the facility will be closed at the expiry of the Probationary License;

6.1.5 If upon inspection by the Licensing Officer, at the end of the fourth “correct by” date, the outstanding violation(s) have not been corrected, the Minister may cancel or suspend the facility’s License and provide the Licensee with two (2) weeks written notice of the cancellation/suspension and the reasons;

6.1.6 For facilities licensed under the *Day Care Act and Regulations*, the Licensee may request the Minister to review the action of cancelling the license.

6.2 Mixed Administrative and High Priority Violations: If it is determined through a licensing inspection or a complaint follow-up inspection both administrative and high priority violations are identified in a licensed facility, the enforcement processes for High Priority Violations, outlined under Section 6.3(see below) will be followed.

6.3 High Priority Violations: If it is determined through a licensing inspection or a complaint follow-up inspection that one or more High Priority Violations requiring immediate attention have been identified in a licensed facility, the following process will be implemented:

6.3.1 The Licensing Officer identifies the High Priority violation(s) and issues a Licensing Inspection Report identifying the violations and specifying the “correct by” date; the Facility Director must sign and post the Licencing Inspection Report in a conspicuous location in the facility prior to the Licensing Officer leaving the site; a copy of the Licensing Inspection Report is forwarded to the Licensee and the Supervisor by the Licensing Officer;

6.3.2 If upon inspection before or on the “correct by” date the Licensing Officer identifies that the High Priority Violations have not been rectified, a second Licensing Inspection Report is issued to the Facility Director identifying the violation(s) specifying a second “correct by” date, as well as specifying that the Licensing Officer is recommending to the Director the issuance of a Probationary License; the Facility Director must sign and post the Licensing Inspection Report in a conspicuous location in the facility prior to the Licensing Officer leaving the site; a copy of the Licensing Inspection Report is forwarded to the Licensee and the Supervisor by the Licensing Officer; the Supervisor will immediately notify the Director and the Director shall issue to the Licensee a letter containing the outstanding violations and confirming the second “correct by” date and shall inform the Licensee that failure to meet all the requirements by the specified date will result in the Director making a recommendation to the Minister to issue a Probationary License of one (1) month duration; at the end of the one (1) month the License will be cancelled or suspended and the facility will be closed if the outstanding violation(s) is not corrected; a copy of the letter will be sent to the Facility Director and must be posted in a conspicuous location in the facility;

6.3.3 If upon inspection by the Licensing Officer before or on the second “correct by” date the violation(s) is not rectified, the Licensing Officer must immediately notify their Supervisor; the Supervisor will notify Director; the Director will inform the Minister and the Minister may issue to the Licensee a Probationary License of one (1) month duration. The Director shall issue to the Licensee a letter containing the outstanding violations and specifying a third “correct by” date one (1) week before the expiry of the Probationary License and shall inform the Licensee that failure to meet all the requirements by the specified date will result in the Director making a recommendation to the Minister to cancel or suspend the License and the facility will be closed at the expiry of the Probationary License;

6.3.4 If upon inspection at the end of the third “correct by” date the outstanding violation(s) have not been rectified, the Minister may cancel or suspend the facility’s License and provide the Licensee with one (1) week written notice of the cancellation/suspension and the reasons;

6.3.5 For facilities licensed under the *Day Care Act and Regulations*, the Licensee may request the Minister to review the action of cancelling the license.

6.4 Chronic Non-Compliance: Chronic non-compliance occurs when a Licensee has had three (3) Probationary Licenses in three (3) consecutive years. If in the fourth year, upon inspection by the Licensing Officer, any further violations of any kind are identified, the Director shall make a recommendation to the Minister to cancel/suspend the facility’s License upon providing the Licensee with two (2) weeks notice of cancellation/suspension.