

R380. Health and Human Services, Administration.

R380-600. Licensing General Provisions-Enforcement.

R380-600-1. Authority and Purpose.

- (1) This rule is enacted and enforced in accordance with Sections 26B-2-104, 26B-2-202, 26B-2-402, and 26B-2-703.
- (2) This rule provides consolidated procedures and enforcements for the licensing entities within the Division of Licensing and Background Checks.

R380-600-2. Definitions.

- (1) "Abuse" means the same as the term is defined in Sections 26B-6-201 and 80-1-102.
- (2) "Adverse event" means any event that poses a risk to the health or safety of a client and includes any event that is the result of:
 - (a) a licensee or licensee's staff's failure to follow an administrative rule or statute; or
 - (b) an action taken by the licensee or licensee's staff.
- (3) "Applicant" means the legally responsible individual, individuals, or business seeking to obtain a valid new or renewal license or certificate from OL.
- (4) "Associated with the licensee" means the same as defined in Section 26B-2-101.
- (5) "Category" means the type of license or certificate needed for the services offered by the provider.
- (6) "Certificate" means a residential child care certificate in accordance with Section 26B-2-701.
- (7) "Certification" is defined in Section 26B-2-701.
- (8) "Certified" means an approval to operate in compliance with local or federal requirements or regulations completed by OL or on behalf of OL for another local or federal agency, in accordance with Section 26B-2-701.
- (9) "Citation" means a notice for serious or repeat rule noncompliance.
- (10) "Civil money penalty" or "CMP" means a penalty issued by OL as a fine for repeat citations or when an initial instance of noncompliance results in, or is likely to result in, harm to clients.
- (11) "Client" means an individual, resident, or patient receiving services from a provider, in accordance with Section 26B-2-701.
- (12) "Compliance" means adherence to governing rule and statute with no current penalty actions or pending resolution of noncompliance.
- (13) "Covered individual" means:
 - (a) a caregiver;
 - (b) a director;
 - (c) a member of the administration or governing body;
 - (d) a volunteer who has unsupervised access to any client or any client's records, except a parent or legal guardian of a child or vulnerable adult enrolled in the program having access to their own child or vulnerable adult;
 - (e) an employee;
 - (f) an individual age 12 years or older who resides in the facility;
 - (g) an owner; and
 - (h) anyone who has unsupervised access to any client or any client's records.
- (14) "Critical incident" means an event out of the range of normal experience in a child care or human services program, including:
 - (a) a medication error resulting in a telephone call to or a consultation with a poison control center, an emergency department visit, an urgent care visit, or hospitalization;
 - (b) a missing client;
 - (c) an adverse event causing loss or impairment of the function of a bodily member, organ, or mental faculty or significant disfigurement;
 - (d) an allegation or confirmation of abuse, neglect, or exploitation;
 - (e) an allegation or confirmation of waste, fraud or abuse of Medicaid funds;
 - (f) any death of a minor;
 - (g) any death related to an adverse event;
 - (h) any medical emergency requiring treatment beyond basic first aid;
 - (i) any prohibited practice in a congregate care program, as described in Section 26B-2-123, including misuse or unauthorized use of restrictive interventions, seclusion, or body cavity search;
 - (j) any property damage or infestation that jeopardizes services; or
 - (k) any significant criminal activity.
- (15) "Department" means the Utah Department of Health and Human Services.
- (16) "Division" means the Division of Licensing and Background Checks (DLBC) in the Department of Health and Human Services and includes OL and OBP.
- (17) "Eligible" means an OBP determination of:
 - (a) direct access qualified for a human services program, in accordance with Section 26B-2-120;
 - (b) certified for direct patient access in a health care facility, in accordance with Section 26B-2-240; or
 - (c) no findings in a covered individual's background check that would prohibit that covered individual from being involved in child care, as outlined in rules under Titles R381 and R430.

(18)(a) "Emotional mistreatment" means verbal or non-verbal conduct that results in a client suffering significant mental anguish, emotional distress, fear, humiliation, or degradation.

(b) Emotional mistreatment includes:

- (i) alienating;
- (ii) demeaning;
- (iii) harassing a client;
- (iv) intimidating;
- (v) isolating;
- (vi) terrorizing; or
- (vii) threatening.

(19) "Exploitation" includes:

(a) the use of a client's property, labor, or resources without the client's consent or in a manner that is contrary to the client's best interests, or for the gain of some person other than the client, including spending a client's funds for the benefit of another;

(b) using the labor of a client without paying the client a fair wage or without providing the client with just or equivalent non-monetary compensation, where such use is inconsistent with therapeutic practices;

(c) engaging or involving a client in any sexual conduct; or

(d)(i) sexual exploitation of a minor as described in Section 76-5b-201;

(ii) sexual exploitation of a vulnerable adult as described in Section 76-5b-202; or

(iii) abuse of a vulnerable adult as described in Section 76-5b-202 and Subsection 76-5-111(2).

(20)(a) "Fraud" means a false or deceptive statement, act, or omission that causes, or attempts to cause, property or financial damages, or for personal gain.

(b) Fraud also means any offenses identified as fraud in Title 76, Chapter 6, Offenses Against Property.

(21) "Harm" means financial, physical, or emotional pain, damage, injury, or fraud.

(22) "Inspection" means an announced or unannounced visit of the provider's site to monitor compliance.

(23) "Inspection report" means the written official description of any rule, statute, or requirement where the provider may be found out of compliance, that may include facts supporting the noncompliance, risk levels, corrective actions, and corrective time frames OL, or an OL-approved agency sends the provider once an inspection, survey, or investigation has been completed.

(24) "Internal dispute resolution" means an internal review that takes place once a provider has requested an administrative hearing for any action the agency takes that affects or may, in the future, affect the status of a provider's license.

(25) "Investigation" means an inspection to verify compliance with rule or statute.

(26) "Mistreatment" means conduct resulting in emotional or physical harm.

(27) "NAA" means a Notice of Agency Action that is issued by OL to place a sanction on a license or certification, including:

- (a) application denial;
- (b) conditions placed on a license;
- (c) revocation status; or
- (d) suspension status.

(28) "NEAA" means a Notice of Emergency Agency Action that is issued by OL to place temporary, immediate conditions on a license or certification, as authorized by Section 26B-2-703.

(29)(a) "Neglect" means abandonment or the failure to provide necessary care, including nutrition, education, clothing, shelter, sleep, bedding, supervision, health care, hygiene, treatment, or protection from harm.

(b) Neglect also means the same as the term is defined in Sections 26B-6-201, 76-5-110, and 80-1-102.

(30) "OBP" means the Office of Background Processing within the Department of Health and Human Services, Division of Licensing and Background Checks.

(31) "OL" means the Office of Licensing within the Department of Health and Human Services, Division of Licensing and Background Checks.

(32) "Owner" means any person or entity that:

- (a) is listed on a license or certificate as the license or certificate holder;
- (b) possesses the right to hold, use, benefit from, enjoy, convey, transfer, and otherwise dispose of a program or facility;
- (c) keeps the rights, participates in, or is ultimately responsible for operations and business decisions of a program or facility; or
- (d) operates or has engaged the services of others to operate the program or facility.

(33) "Penalty" means an action taken by OL to fine a licensee or certificate holder, deny a license, or place a condition on, suspend, or revoke a license due to the program or facility's noncompliance with statute or rule.

(34) "Person" means:

- (a) a business entity;
- (b) a corporation;
- (c) a governmental entity;
- (d) a partnership;

- (e) an agency;
- (f) an association; or
- (g) an individual.
- (35) "Physical mistreatment" means conduct resulting in pain, injury, or death.
- (36) "Plan of correction" means, except for the Center for Medicare and Medicaid Services (CMS) plan of correction as defined in 42 CFR 488.401 (2024), a temporary process for OL and the provider to work toward improved provider compliance and preventing further noncompliance.
- (37) "Program or facility" means any setting, activity, service, procedure, and premises used by the provider to operate their license or certificate in accordance with Section 26B-2-701.
- (38) "Provider" means the license or certificate holder or the legally responsible individual or individuals providing services regulated by OL.
- (39) "Regular business hours" are the hours that the program or facility is available to the public or providing services to clients.
- (40) "Risk levels" means likelihood and severity of harm between low, moderate, high, and extreme that may result if a rule is out of compliance.
- (41) "Seclusion" means, except for medically approved quarantine, the involuntary confinement of an individual in an area:
 - (a) away from the individual's peers; and
 - (b) in a manner that physically prevents the individual from leaving the room or area.
- (42) "Serious injury" means significant disfigurement or loss or impairment of function of a bodily member, organ, or mental faculty.
- (43) "Significant criminal activity" means any unlawful activity by or against the program or facility's clients or on duty staff that poses a serious threat to the program or facility's clients or on duty staff's health, safety, or well-being including:
 - (a) any criminal activity that involves law enforcement;
 - (b) illegal physical or sexual misconduct or assault;
 - (c) riot;
 - (d) suspected exploitation; or
 - (e) suspected fraud.
- (44) "Significant medical emergency" means an acute injury or illness posing an immediate risk to a person's life or health or requires emergency medical care.
- (45) "Unsupervised access" means being out of sight and hearing from an individual who has successfully passed the required OBP background check.
- (46) "Variance" means any deviation from rule authorized in writing by OL.
- (47) "Warning" means a licensing action that warns the provider that a rule noncompliance shall be corrected within a specified amount of time.

R380-600-3. New and Renewal Licensing Procedures.

- (1) Until a license or certificate is approved by OL, an applicant or provider may not:
 - (a) accept any fee;
 - (b) enter into any agreement to provide a client service; or
 - (c) provide any client service.
- (2) Each applicant and provider shall comply with any applicable rule, statute, zoning, fire, safety, sanitation, building and licensing law, regulation, ordinance, and code of the city and county where facility or agency will be or is located.
- (3) Except as outlined in Subsection 26B-2-107(3) for a foster home, an applicant or a provider shall permit OL to have immediate, unrestricted access to:
 - (a) any unaltered on and off-site program or facility and client records;
 - (b) each client who independently consents to speak to OL staff;
 - (c) each site subject to licensing or certification; and
 - (d) each staff member.
- (4) A provider may not permit a staff or client to threaten, verbally or physically abuse, or use violence of any kind while interacting with a representative of the department.
- (5) An applicant seeking an initial or renewal license or certificate to operate a program or facility shall submit:
 - (a) a complete application as provided by OL;
 - (b) any required fee for each category of program or facility application;
 - (c) except as described in Subsection 26B-2-120(12), a background check for each covered individual;
 - (d) any policy and procedure, or updates if already submitted, as required by OL;
 - (e) name and contact information for each responsible decision-maker, including any owner or program or facility director;
 - (f) documentation that verifies the applicant's compliance with, or exemption from, fire and business license requirement; and
 - (g) as applicable for a healthcare facility, architectural plans and a description of the functional program or facility.
- (6) An applicant shall notify OL in writing of any changes to the application, including withdrawal of the application.

- (7) A provider may not implement a policy that requires OL approval without that OL approval.
- (8) The provider must submit:
- (a) a renewal request and applicable fees at least 30 days before the expiration of their license or certificate;
 - (b) a renewal request and applicable late fees within 30 days after the expiration of their license or certificate; or
 - (c) a new application for a new license or certificate and applicable fees if the provider lets their license or certificate expire and 30 days have passed since their license or certificate expired.
- (9) A residential treatment program or facility provider applying for an initial license shall submit proof that the program or facility served notice of intent to operate in accordance with Section 26B-2-117.
- (10) A new applicant shall submit a new initial application and applicable fees if they have not successfully completed the application process six months from the date of the initial application.
- (11) OL may deny the initial or renewal application, issue a CMP, or place conditions on a renewal license or certificate if:
- (a) the provider failed to achieve or maintain compliance with any applicable statute, rule, or ordinance;
 - (b) the applicant or provider has a compliance history that shows a pattern of noncompliance with any applicable statute, rule, or ordinance;
 - (c) the applicant or provider gives false or misleading information to OL;
 - (d) OL reasonably determines that the applicant or provider is not likely to operate in compliance with any applicable statute, rule, or ordinance;
 - (e) the applicant or provider received a notice from OBP that a covered individual in the program or facility is not eligible due to an OBP background check and that covered individual is still in the program or facility;
 - (f) OL finds a program or facility director, owner, or any individual involved in the program or facility's billing process on OL of Inspector General's List of Excluded Individuals and Entities; or
 - (g) OL finds that an applicant or provider maintains association with any individual with a license revoked by OL if the application is submitted within five years from the time of the revocation.
- (12) OL may deny renewal of a license or certificate for an applicant or provider that is no longer providing a service that requires them to have a license or certificate or if they have not provided any service for the past 24 months.
- (13) A provider approved by OL to certify their own program or facility site shall register each certified site using the licensing provider portal.
- (14) A denied applicant may not reapply for a minimum of a three-month period beginning on the date of denial.
- (15) The provider shall adhere to any individualized parameter on a program or facility license or certificate to promote the health, safety, and welfare of any client. Parameters may include:
- (a) adequate square footage to determine capacity.
 - (b) an admission or placement restriction; or
 - (c) an age restriction;
- (16) The provider must resolve any outstanding balance, condition, or noncompliance status on any license or certificate before a license or certificate is granted by OL for any associated new site.
- (17)(a) A provider may apply for a two-year license if the provider is not a residential or foster care program or facility.
- (b) A provider may apply for a two-year license if the program or facility is a health care provider.
 - (c) A provider applying for a two-year license shall ensure:
 - (i) the program or facility is in good standing with OL for the two consecutive license periods issued by OL immediately before the date of application;
 - (ii) the provider understands that required inspections will be conducted in the same manner as for annual licenses of the same license type;
 - (iii) OL reasonably determines that the provider is likely to maintain good standing for a two-year period;
 - (iv) the provider submits twice the annual fee required for each category of license sought; and
 - (v) there are no other statutory restrictions that will disqualify the license type for a two-year license.
- (18) Unless previously approved by OL to provide services before receiving a license or certificate for special circumstances, a provider must submit an application, any required fee, and obtain a new or a renewed license or certificate before providing any service that requires a license or certificate.
- (19) A license or certificate expires at midnight on the last day of the same month the license or certificate was issued, one year after its effective date, except when the license or certificate has been:
- (a) revoked by OL before expiration;
 - (b) extended by OL beyond the date of expiration;
 - (c) relinquished by the provider;
 - (d) received a shortened expiration time frame as requested by the provider;
 - (e) issued as a two-year license; or
 - (f) issued as a three-year license for a foster parent in accordance with Subsection 26B-2-105(4)(d).
- (20) A two-year license expires at midnight on the last day of the same month the license was issued, two years after the effective date on the license.
- (21) A provider may request an extension of up to 90 days if:
- (a) any applicable fees are paid;

- (b) any noncompliance issues are resolved to the satisfaction of OL;
 - (c) the provider submits a written request for an extension to OL; and
 - (d) the provider understands that an extended license will reduce the dates for the subsequent renewal license to start on the date compliance is achieved and end on the original license renewal date.
- (22) A provider who voluntarily relinquishes a license or certificate shall:
- (a) notify OL and the patients or their next of kin or legal guardian, as applicable, at least 30 days before the effective date of closure;
 - (b) ensure safe keeping of records; and
 - (c) as applicable, return any patients funds and valuables during discharge.
- (23) The provider may voluntarily relinquish their license or certificate except when OL has issued a notice of agency action revoking the license or certificate.
- (24) Each license or certificate is not transferable.
- (25) The provider shall post their current license or certificate, except in a foster home, on the premises in a place readily visible and accessible to the public.
- (26) OL may deny renewal of a license or certificate for a program or facility who is no longer providing services.

R380-600-4. Program or Facility Changes.

- (1) A provider must submit a complete program change application to amend an existing license at least 30 days before any of the following changes:
- (a) an increase or decrease of capacity, including any change to the amount of space used to provide services;
 - (b) a change in the name of the program or facility;
 - (c) a change of:
 - (i) administrator or management company in a health care facility;
 - (ii) director in a child care facility; or
 - (iii) responsible decision maker or parent program in a human services program;
 - (d) the move of an administrative site where no clients are served; or
 - (e) a change that transfers less than 50% ownership or controlling interest to a new owner.
- (2) A provider may proceed with any changes or make them public after approval by OL.
- (3) A provider must submit a complete OL application for a new license and fees at least 30 days before any of the following changes:
- (a) a change of location;
 - (b) a change in the population served;
 - (c) a change in the regulation type of the program or facility;
 - (d) a change that transfers 50% or more ownership or controlling interest to a new owner; or
 - (e) an additional license category.
- (4) For a change that requires a new license or certificate, the provider shall adhere to the following conditions:
- (a) no new clients may be served until a new license or certificate is issued;
 - (b) the status and any noncompliance history of the previous license or certificate will continue;
 - (c) the application fee for any additional license category will be prorated so that it expires on the same date as any other facility existing license; and
 - (d) if a foster child is placed in a foster home, the licensed foster parent shall ensure the health and safety of the foster child during the transition to licensure or certification at the new site.

R380-600-5. Fees.

- (1) Except for a foster home, division of the department, or certified home for the Division of Services for People with Disabilities, the applicant must pay any required application fee before OL performs any on-site visit or document review.
- (2) The applicant shall pay a new application fee if the applicant has not completed the application process 12 months after the date of initial application if the applicant desires to continue with the application process.
- (3) The applicant shall pay an initial application fee for each category of program or facility offered at each program or facility site.
- (4) The applicant shall pay an application fee for any program change request that requires OL to perform an on-site inspection and complete a comprehensive compliance review.
- (5) The provider shall pay a renewal license or certificate fee for each license or certificate that is renewed at each program or facility site.
- (6) The provider shall pay any applicable capacity fee based on OL-approved client or bed capacity.
- (7) The provider must pay any fines and fees owed to OL before OL issues a new or renewal license or certificate.
- (8) A provider with more than one building, unit, or suite located at a single site may choose between the following methods of assessing a fee and issuing a license:
- (a) each category of license includes each on-site building, unit, or suite; or
 - (b) each category of license is issued separately for each individual on-site building, unit, or suite.

(9) The provider shall pay OL fees for any monitoring inspection and, if required by OL for extreme noncompliance, the costs of placing a licenser to monitor provider's compliance or a temporary manager to ensure the health and safety of the population served.

(10) The provider shall pay OL an additional follow-up inspection fee each time OL has to conduct an additional follow-up inspection for lack of compliance with the same rule.

(11) The provider shall pay any applicable fees within the time frames required by the division.

(12) The division may grant an account credit or deny a refund request.

R380-600-6. Variances.

(1) The division director, OL director, or the director's designee, may grant a variance after determining that a variance is not likely to:

(a) compromise client health and safety; or

(b) provide an opportunity for abuse, neglect, exploitation, harm, mistreatment, or fraud.

(2) The provider may not deviate from any rule before receiving written approval signed by the OL director or the director's designee.

(3) A provider seeking a variance shall submit a written request to OL on an OL-approved variance request form.

(4) The provider must submit a variance request at least 30 days before the proposed start date unless the provider documents a need to expedite the request.

(5) The provider shall sign the approved variance and comply with the terms of the written variance, including any conditions or modifications contained within the approved written variance.

(6) If the variance is still needed, the provider must request renewal for a variance 30 days before the variance expires.

R380-600-7. Inspection and Investigation Process.

(1) OL may schedule announced and unannounced inspections to follow statute, contract, and federal requirements according to each category.

(2) OL may adopt the findings from an inspection conducted by another local or federal agency or by the department staff on behalf of another local or federal agency as part of the provider's compliance history.

(3) The provider shall cooperate with OL to monitor rule compliance and rule compliance maintenance any time the program or facility is serving clients by giving to OL full access to:

(a) the building;

(b) any client who independently consents to speak with OL staff;

(c) staff; and

(d) any program or facility record.

(4) The provider shall cooperate with OL by immediately responding to each request for information necessary to demonstrate rule compliance before, during, and after inspections.

(5) The provider shall make available and permit reproduction of program or facility records and documents by, or on behalf of, the department as necessary to ascertain compliance with any applicable law, rule, and regulation.

(6) The provider shall ensure that the integrity of OL's information gathering process is not compromised by withholding or manipulating information or influencing any specific response of staff or clients.

(7) The provider shall allow OL to access any program or facility record or staff at an administrative or certified location that is not located at the licensed site.

(8) Except for when an inspection is conducted by another local or federal agency, or by the department staff on behalf of another local or federal agency, OL shall serve a written inspection report to the provider once the inspection process is complete and approved by OL management.

(9) If the provider is out of compliance with any applicable rule, statute, or requirement, the provider shall:

(a) come into compliance within the required correction time frames as stated in the respective inspection report;

(b) pay any applicable penalty and inspection fee; and

(c) maintain compliance with each applicable rule, statute, or requirement.

(10) OL may require immediate compliance with any rule that is found out of compliance and that represents an imminent risk to any client.

(11) Once an inspection is completed and the inspection report is produced by OL, OL shall post each citation from each inspection and each substantiated noncompliance from a complaint investigation on the division website for no less than 36 months.

(12) The provider shall follow OL's directions when OL requires a plan of correction.

(13) OL may require additional inspections as part of the plan of correction.

(14) OL may investigate any complaint or incident that suggest noncompliance with any rule or statute, except for:

(a) an anonymous complaint against a provider within child care licensing; or

(b) a complaint against a provider within child care licensing that alleges an issue that happened six or more months before the complaint is received.

(15) Except as noted for child care complaints in Subsection R380-600-9(15), OL reserves discretion to decline investigation of a complaint that is anonymous, unrelated to current conditions of the program, or not an alleged violation of a rule or statute.

(16) When a critical incident occurs under the direct responsibility and supervision of the program or facility, the provider shall:

(a) submit a report of the critical incident to OL in a format required by OL within one business day of the critical incident occurrence;

(b) additionally ensure any allegation of an incident of abuse, neglect, or exploitation of a client is reported to the Division of Child and Family Services for a minor client or Adult Protective Services for an adult client and law enforcement within 24 hours;

(c) notify the parent or legal guardian of each involved client within a 24-hour period from the time of the incident;

(d) if the critical incident involves any client in the custody of the department or under contract with the department, notify the involved department division immediately; and

(e) collect, maintain, and submit original witness statements and supporting documentation, including video footage if available, regarding each critical incident to OL upon request.

R380-600-8. Rule Compliance, Penalties, Informal Dispute Resolution, and Appeals.

(1) The provider shall:

(a) comply and maintain compliance with each applicable rule, statute, or requirement;

(b) ensure each staff member complies with each applicable rule, statute, or requirement; and

(c) comply with and ensure each staff member complies with the department Provider Code of Conduct as established in Rule R380-80.

(2) Based on OL findings or the findings of any OL authorized agency, OL may:

(a) deny a new or renewal of a license or certificate;

(b) issue an NEAA as outlined in Section R380-600-9;

(c) issue an immediate closure;

(d) issue a warning;

(e) issue a citation;

(f) issue a CMP;

(g) require a plan of correction;

(h) suspend a license or certificate;

(i) place conditions on a program or facility license or certificate;

(j) increase monitoring inspections;

(k) restrict or prohibit admissions; and

(l) revoke a license or certificate.

(3) When taking any agency action against a provider, OL may consider the provider's previous 36-month history of:

(a) compliance with any applicable rule, statute, or requirement;

(b) chronic, ongoing noncompliance with any applicable rule, statute, or requirement;

(c) any unpaid fee or penalty;

(d) serious noncompliance that places any client's health and safety at immediate risk of harm;

(e) failure to meet conditions while there are conditions placed on the program or facility;

(f) false or misleading information submitted to OL;

(g) actions to intentionally alter any document provided to or issued by the department;

(h) failure to allow an authorized representative from the department access to the program or facility to ensure compliance with any rule;

(i) failure to submit or make available to the department any documentation or report required to ensure compliance with any rule;

(j) actions to knowingly employ, be employed by, contract with, or in any way relate to business with a person whose license has been revoked by OL within the previous five years;

(k) serious noncompliance with any rule that results in the death or serious harm to a client, or that places the client at risk of death or serious harm; or

(l) commission of an illegal act that would exclude a person from having a license.

(4) Any official OL action on any provider, except for a foster home, is considered public record, and OL shall make it available to the public including posting citations, substantiated complaint allegations, and other penalties on the division website for at least 36 months.

(5) OL may choose to amend any penalty or action taken against a provider at any point during the action process.

(6) If a rule noncompliance resulted in a CMP and there is a repeat instance of the same rule noncompliance within a 36-month period, the provider shall pay double the amount of the original CMP and, for each subsequent noncompliance of the same rule issued, double the amount of the previous CMP not to exceed \$10,000.

(7) The provider shall demonstrate compliance with each noncompliant rule according to the timelines established in the inspection report produced by OL to avoid any further penalties.

(8) If OL places conditions on or suspends the license of a foster parent, the foster parent may keep any current placements if the placing department entity approves to allow the foster child to remain in the current placement during the time of condition or suspension.

(9) Except as authorized by OL in writing, a program or facility that has had its license or certificate suspended or revoked shall:

- (a) not accept new clients;
- (b) only provide any service necessary to maintain client health and safety during the client's transition out of the program or facility;
- (c) develop and comply with a plan to transition each client out of the program or facility and into an equivalent, safe, currently licensed program or facility or into the custody of the client's legal guardian; and
- (d) maintain program or facility staffing to maintain the health and safety needs of each client while an appeal of the suspension or revocation is pending or until each client is removed from the program.

(10) Unless otherwise stated on the conditions set by a conditional license, OL may conduct increased monitoring inspections for a facility on a conditional status until the facility demonstrates substantial compliance.

(11) Any owner identified in a license or certificate revocation action may not be approved for a license or certification of any other program or facility overseen by OL for five years from the date the revocation was made effective.

(12) If OL places a program or facility on a conditional license or issues a suspension or a revocation, the provider shall, within five days of receiving the notice:

- (a) post the notice on-site where it is easily viewable by the public;
 - (b) notify each client, guardian, and prospective client of the notice;
 - (c) post a copy of the notice on the program or facility website, if the program or facility has a website; and
 - (d) keep the notice posted for as long as OL notice is in effect.
- (13) If an appeal of a revocation, suspension, or conditional status that restricts admissions is pending, a provider may not accept any new clients without prior written authorization from OL.

(14) OL may, in addition to any other actions, refer any noncompliance concern to any other local and federal agency and seek criminal penalties.

(15)(a) An applicant or provider may request an administrative hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act for any agency action within 15 calendar days of being informed in writing of the OL action, except for an NEAA.

(b) An applicant may request an administrative hearing of any NEAA within five calendar days of being informed in writing of the NEAA.

(c) An internal dispute resolution shall automatically take place when a provider requests an administrative hearing.

R380-600-9. Notice of Emergency Agency Actions.

(1) A provider that experiences a serious injury or death of a client shall report a critical incident to OL in accordance with Subsection R380-600-7(17).

(2) OL shall make the determination of whether or not to issue an NEAA with consideration of:

- (a) any known facts of the event;
- (b) the provider's adherence to any licensing rule leading up to and during the critical incident; and
- (c) the immediate health and safety of the remaining clients.

(3) The known facts of the event are deemed proof of conduct adverse to the standards required to provide services and promote public trust.

(4)(a) If OL determines that an NEAA is necessary for the protection of clients, OL may place emergency conditions on the license to include restricting new admissions and increased monitoring of provider operations.

(b) An NEAA shall expire 30 days after the date of issuance.

(c) OL may dismiss the NEAA at any time before the 30-day expiration.

(d) Issuance of an NEAA does not prevent OL from issuing a subsequent notice of agency action or any other sanction.

(5) The provider may appeal an NEAA by filing a written request for an administrative hearing with OL within five calendar days of receipt of the NEAA.

(6) NEAA conditions are immediately in effect and the provider shall adhere to any listed conditions unless reversed by the department's Office of Administrative Hearings or under written authorization from OL.

R380-600-10. Immediate Closure.

OL may order the immediate closure of a program or facility if conditions create a clear and present danger to any client and may require immediate action to protect the client's health or safety.

R380-600-11. Unlicensed Program or Facilities.

In accordance with Section 26B-2-702, a person operating a program or facility that requires a license, certificate, or certification is subject to the following parts under Title 26B, Chapter 2, Licensing and Certifications, regardless of whether they hold a license, certificate, or certification:

- (1) Part 1, Human Services Programs and Facilities;
- (2) Part 2, Health Care Facilities Licensing and Inspection; or
- (3) Part 4, Child Care Licensing.

R380-600-12. Compliance.

(1) If a federal requirement or state contract requirement presents a conflict with any rule governing a provider under the division, the federal requirement or state contract requirement shall prevail.

(2) Any provider found in noncompliance with any rule or statute governing the division may be subject to the penalties enumerated in this rule and Title 26B, Chapter 2, Part 7, Penalties and Investigations.

KEY: licensing, human services, health care facility, child care

Date of Last Change: May 8, 2025

Authorizing, and Implemented or Interpreted Law: 26B-2-104; 26B-2-202; 26B-2-402; 26B-2-703