



1 State against the home have not been paid. Fines and penalties for which  
2 an appeal is pending are exempt from consideration. The renewal  
3 application shall contain all necessary and reasonable information that  
4 the Department may by rule require. The Department may amend a  
5 license by reducing it from a full license to a provisional license  
6 whenever the Department finds that:

- 7 a. The licensee has substantially failed to comply with the  
8 provisions of G.S. 131E, Article 6, and the rules promulgated  
9 under that Article;  
10 b. There is a reasonable probability that the licensee can remedy the  
11 licensure deficiencies within a reasonable length of time; and  
12 c. There is a reasonable probability that the licensee will be able  
13 thereafter to remain in compliance with the licensure rules for the  
14 foreseeable future.

15 The Department may revoke a license whenever:

- 16 a. The Department finds that:  
17 1. The licensee has substantially failed to comply with the  
18 provisions of G.S. 131E, Article 6, and the rules  
19 promulgated under that Article; and  
20 2. It is not reasonably probable that the licensee can remedy  
21 the licensure deficiencies within a reasonable length of  
22 time; or  
23 b. The Department finds that:  
24 1. The licensee has substantially failed to comply with the  
25 provisions of G.S. 131E, Article 6; and  
26 2. Although the licensee may be able to remedy the  
27 deficiencies within a reasonable time, it is not reasonably  
28 probable that the licensee will be able to remain in  
29 compliance with licensure rules for the foreseeable future;  
30 or  
31 c. The Department finds that there has been any failure to comply  
32 with the provisions of G.S. 131E, Article 6, and the rules  
33 promulgated under that Article that endanger the health, safety,  
34 or welfare of the patients in the facility.

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

- 1           (1a) In addition to the licensing and inspection requirements mandated by  
2           subdivision (1) of this subsection, the Department shall ensure that adult  
3           care homes required to be licensed by this Article are monitored for  
4           licensure compliance on a regular basis. In carrying out this  
5           requirement, the Department shall work with county departments of  
6           social services to do the routine monitoring and to have the Division of  
7           Facility Services oversee this monitoring and perform any follow-up  
8           inspection called for. The Department shall also keep an up-to-date  
9           directory of all persons who are administrators as defined in subdivision  
10          (1a) of subsection (a) of this section.
- 11          (2) Any individual or corporation that establishes, conducts, manages, or  
12          operates a facility subject to licensure under this section without a  
13          license is guilty of a Class 3 misdemeanor, and upon conviction shall be  
14          punishable only by a fine of not more than fifty dollars (\$50.00) for the  
15          first offense and not more than five hundred dollars (\$500.00) for each  
16          subsequent offense. Each day of a continuing violation after conviction  
17          shall be considered a separate offense.
- 18          (3) In addition, the Department may summarily suspend a license pursuant  
19          to G.S. 150B-3(c) whenever it finds substantial evidence of abuse,  
20          neglect, exploitation or any condition which presents an imminent  
21          danger to the health and safety of any resident of the home. Any facility  
22          wishing to contest summary suspension of a license shall be entitled to  
23          an administrative hearing as provided in the Administrative Procedure  
24          Act, Chapter 150B of the General Statutes. A petition for a contested  
25          case shall be filed within 20 days after the Department mails a notice of  
26          summary suspension to the licensee.
- 27          (4) Notwithstanding G.S. 8-53 or any other law relating to confidentiality of  
28          communications between physician and patient, in the course of an  
29          inspection conducted under subsection (b):
- 30                a. Department representatives may review any writing or other  
31                record concerning the admission, discharge, medication, care,  
32                medical condition, or history of any person who is or has been a  
33                resident of the facility being inspected, and
- 34                b. Any person involved in giving care or treatment at or through the  
35                facility may disclose information to Department representatives;  
36                unless the resident objects in writing to review of his records or  
37                disclosure of such information.
- 38                The facility, its employees and any other person interviewed in the  
39                course of an inspection shall be immune from liability for damages  
40                resulting from disclosure of any information to the Department.
- 41                The Department shall not disclose:
- 42                a. Any confidential or privileged information obtained under this  
43                subsection unless the resident or his legal representative

1                   authorizes disclosure in writing or unless a court of competent  
2                   jurisdiction orders disclosure, or

3           b.       The name of anyone who has furnished information concerning a  
4                   facility without that person's consent.

5                   The Department shall institute appropriate policies and procedures to  
6                   ensure that unauthorized disclosure does not occur. All confidential or  
7                   privileged information obtained under this section and the names of  
8                   persons providing such information shall be exempt from Chapter 132  
9                   of the General Statutes.

10           (5)     Notwithstanding any law to the contrary, Chapter 132 of the General  
11                   Statutes, the Public Records Law, applies to all records of the State  
12                   Division of Social Services of the Department of Human Resources and  
13                   of any county department of social services regarding inspections of  
14                   domiciliary care facilities except for information in the records that is  
15                   confidential or privileged, including medical records, or that contains  
16                   the names of residents or complainants."

17                   Section 2. This act is effective when it becomes law and applies beginning  
18                   with calendar year 1998.