

1 10A NCAC 13D .2106 is amended with changes as published in NCR 27:03, PP. 310-320, as follows:

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3 **10A NCAC 13D .2106 DENIAL, AMENDMENT, OR REVOCATION OF LICENSE**

4 (a) The Department shall deny any licensure application upon becoming aware that the applicant is not in
5 compliance with G.S. 131E, Article 9 and the rules adopted under that law.

6 (b) The Department may amend a license by reducing it from a full license to a provisional license whenever the
7 Department finds that:

8 (1) the licensee has substantially failed to comply with the provisions of G.S. 131E, Article 6 and the
9 rules promulgated under that article; and

10 (2) ~~there is a reasonable probability that the licensee can remedy the licensure deficiencies within a~~
11 ~~reasonable length of time; and~~ there is continued non-compliance after the third revisit.

12 (3) ~~there is a reasonable probability that the licensee will be able thereafter to remain in compliance~~
13 ~~with the licensure rules for the foreseeable future.~~

14 (c) The Department shall give the licensee written notice of the amendment to the license. This notice shall be
15 given personally or by certified mail and shall set forth:

16 (1) the length of the provisional license;

17 (2) ~~the factual allegations;~~ a reference to the statement of deficiencies that contains the facts;

18 (3) the statutes or rules alleged to be violated; and

19 (4) notice of the facility's right to a contested case hearing on the amendment of the license.

20 (d) The provisional license shall be effective ~~immediately upon its receipt by the licensee~~ as specified in the notice
21 and shall be posted in a **prominent** location within the facility, accessible to public view, in lieu of the full license.

22 The provisional license shall remain in effect until:

23 (1) the Department restores the licensee to full licensure status; or

24 (2) the Department revokes the licensee's license.

25 ~~(e) If a licensee has a provisional license at the time the licensee submits the annual utilization data, the provisional~~
26 ~~license shall remain in effect unless the Department determines that the licensee can be returned to full licensure~~
27 ~~status.~~

28 ~~(f)~~ (e) The Department may revoke a license whenever:

29 (1) The Department finds that:

30 (A) the licensee has substantially failed to comply with the provisions of G.S. 131E, Article 6
31 and the rules promulgated under that article; and

32 (B) ~~it is not reasonably probable that the licensee can remedy the licensure deficiencies~~
33 ~~within a reasonable length of time;~~ there continues to be non-compliance at the third
34 revisit; or

35 (2) ~~The Department finds that:~~

36 (A) ~~the licensee has substantially failed to comply with the provisions of G.S. 131E, Article~~
37 ~~6; and~~

1 ~~(B) — although the licensee may be able to remedy the deficiencies within a reasonable time, is~~
2 ~~not reasonably probable that the licensee will be able to remain in compliance with~~
3 ~~licensure rules for the foreseeable future; or~~

4 ~~(3)~~ (2) The Department finds that there has been any failure to comply with the provisions of G.S. 131E,
5 Article 6 and the rules promulgated under that article that endanger the health, safety or welfare of
6 the patients in the facility.

7 ~~(g)~~ (f) The issuance of a provisional license is not a procedural prerequisite to the revocation of a license pursuant to
8 Paragraph ~~(f)~~ (e) of this Rule.

9 ~~(h)~~ (g) The Department ~~can,~~ may, in accordance with G.S. 131E-232, petition to have a temporary manager
10 appointed to operate a facility.

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12 *History Note: Authority G.S. 131E-104;*

13 *Eff. January 1, ~~1996.~~ 1996;*

14 *Amended Eff. January 1, 2013.*