

## Chapter 7: LICENSES

### Purpose Of These Requirements

Child care arrangements that meet the definition of child care are required to be licensed by the Division of Child Development. The purpose of child care licensing is to ensure the safety and developmental well-being of children while in out-of-home care. Child care regulations reduce the risk of predictable harm to children while in child care. In addition, regulations provide basic consumer protection. Potential operators must comply with established child care rules prior to the issuance of a license.

### **Definitions**

**Child care:** is defined as a program or arrangement where three or more children less than 13 years old, who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than 4 hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption.

**Licensee:** means the person or entity that is granted permission by the State of North Carolina to operate a child care facility.

**Article 7, Chapter 110 of the North Carolina General Statutes allows the Department of Health and Human Services to issue the following types of permits:**

#### **For Child Care Centers**

**License:** a permit issued by the Secretary of the Department of Health and Human Services to any child care facility that meets the statutory standards.

#### **For Religious Sponsored Child Care Centers**

**Notice of Compliance:** a permit issued by the Secretary of the Department of Health and Human Services to a religious sponsored child care facility opting to take certain exemptions from the child care rules but in compliance with all health and safety standards not exempted by law.

## SECTION 1: TYPES OF LICENSES

### NC GENERAL STATUTE 110-88 & 110-90

#### Types of Licenses

- ★ The Division has the authority to issue the following types of licenses:
  - Temporary
  - Notice of Compliance
  - Star Rated
  - Provisional
  - Special Provisional
  - Probationary

### CHILD CARE RULE .0403

#### Temporary Licenses

- ★ A temporary license may be issued to the operator of a new center, or to the operator of a previously licensed center when a change of ownership or location occurs. This type of license is effective for 6 months.
- ★ The operator must apply for a license prior to a change in status with the license such as when there will be a change of ownership or location change and the center must have sufficient equipment and materials to operate for the number of children enrolled.
- ★ The temporary license must be posted in a prominent place in the center that parents are able to view daily.
- ★ The temporary license will expire after six months, or upon the issuance of a license or provisional license to the operator, whichever is earlier.

- All child care centers will open with a temporary license.
- The temporary license will be in effect for six months or until the issuance of a star rated license or any other type of license.

### NC GENERAL STATUTE 110-106

#### Notice of Compliance

- ★ Religious sponsored child care centers (those operated by a church, synagogue, or school of religious charter) may receive a Notice of Compliance.

- ☑ North Carolina General Statute 110-106 allows religious sponsored child care centers the option of being issued a license or a Notice of Compliance.
- ☑ If a religious-sponsored child care center elects to comply with all of the child care licensing requirements, they will be issued a license.
- ☑ If the center elects to take exemptions allowed by GS 110-106, they will be issued a “Notice of Compliance.”
- ☑ More information regarding Religious Sponsored Child Care Centers can be found in Chapter 15.

**NC GENERAL STATUTE 110-90**  
**Star Rated License**

 A star rated license is issued to a child care facility that meets standards established in child care law and rules. The rating is based on program standards and education levels of staff.

- ☑ A One Star Rated License indicates the child care operator meets minimum child care requirements and can be issued after being in operation for a minimum of six months.
- ☑ A Two through Five Star Rated License is issued to child care operators who voluntarily meet enhanced standards of child care requirements and has been in operation for a minimum of six months.
- ☑ New operators wishing to be eligible for a Two through Five Star Rated License should begin preparing for this from the time they open. Inform your child care consultant during prelicensing or within the first thirty days the center opens.
- ☑ The consultant will help the center prepare to meet any voluntary enhanced standards necessary for the level license they wish to achieve. Refer to Chapter 17 – Star Rated License for specific requirements.
- ☑ A center will receive a One Star Rated License at the end of the Temporary License period, if the operator chooses not to meet the voluntary enhanced requirements and does not apply for a Two – Five Star Rated License.

## **CHILD CARE RULE .0401**

### **Provisional Licenses**

 A Provisional License is a permit that may be issued for up to one year to child care providers who fail to meet minimum licensing requirements.

- This license is issued if the Division determines that the applicant is making a reasonable effort to conform to the requirements but has yet to achieve full compliance.
- Provided that a situation is not hazardous to children, a provisional license can be issued in the following situations:
  - To allow a specific time period for correcting a violation of the building, fire, or sanitation requirements, provided the appropriate inspector documents the violation is not hazardous to the health or safety of the children but nevertheless necessitates a provisional classification until corrected.
  - To allow a specific time period for the center to comply fully with all licensing requirements other than building, fire, or sanitation and to demonstrate that compliance will be maintained, provided that conditions at the facility are not hazardous to the health or safety of the children or staff.
  - To allow time for the applicant or licensee to request a declaratory ruling when they do not agree with a violation cited or decision made by the Division.
  - As an administrative action for substantiation of child abuse or neglect.
  - As an administrative action for not maintaining a compliance history score of at least 75%, for the past 18 months or during the length of time the facility has operated.
- The provisional license and the document describing the reasons for its issuance must be posted in a prominent place in the facility where parents can view it daily.
- Written notification of the provisional license must be given to all parents of children currently enrolled and copies of documentation must be maintained on-site in a binder accessible to parents.
- If an operator appeals the provisional license, the license does not have to be posted however written notification must be completed and distributed as stated above.

 See Chapter 13 – Administrative Actions for more information on Provisional Licenses.

### **CHILD CARE RULE .1904 Special Provisional Licenses**

 A Special Provisional License is a permit that may be issued for up to six months to child care providers when it is determined that child abuse or neglect has occurred in a center.

- The special provisional license and the reasons for its issuance must be posted in a prominent place in the center.
  - The special provisional license and reasons for issuance must remain posted for the entire time period covered by the license, and also during the time of any administrative proceedings.
  - In some circumstances, no new children may be enrolled in the center until the Division is satisfied that the abusive or neglectful situation no longer exists and gives the operator written permission to accept new children.
  - Written notification of the special provisional license must be given to all parents of children currently enrolled and copies of documentation must be maintained on-site in a binder accessible to parents.
-  See Chapter 13 – Administrative Actions for more information on Special Provisional Licenses.

### **CHILD CARE RULE .2009 Probationary Licenses**

 A Probationary License is a permit that may be issued for up to one year to child care providers when it is determined that a violation of the child care law or rules has been willful, continual or hazardous to the health and safety of children.

- The notice describing the reasons for the issuance of the probationary license will describe the specific section of the child care law or rules violated and will specify the length of the probationary license period.

- ☑ The probationary license and the notice describing the reasons for its issuance must be posted in a prominent place in the center.
- ☑ Failure of the licensee to comply with the terms of probation may result in the start of proceedings to suspend or revoke the license.
- ☑ The probationary license and reasons for issuance must remain posted for the entire period covered by the license, and also during the time of any administrative proceedings.
- ☑ Written notification of the probationary license must be given to all parents of children currently enrolled and copies of documentation must be maintained on-site in a binder accessible to parents.
- 📁 See Chapter 13 – Administrative Actions for more information on Probationary Licenses.

## SECTION 2: STATUS CHANGE

*A status change is an event that requires the issuance of a new license.*

### **CHILD CARE RULE .0204** **Change of Ownership of a Center**

- ★ A license cannot be bought, sold, inherited, or transferred by one owner to another or from one location to another.
- ★ A change of ownership occurs when the person or entity held legally responsible for the child care business changes.
- ★ The new operator must apply for a new license at least 30 days in advance prior to assuming ownership of the center.

- ☑ Prior to a change of ownership, the Division will need a Change of Owner form to be completed and notarized. This form confirms the current operator’s intent to sell his/her business and the prospective buyer’s intent to purchase the business. The current operator can request this form from their child care consultant.
- ☑ The top part of the form must be completed by the current operator and the bottom portion must be completed by the prospective buyer. The child care consultant must receive the Change of Owner form at least 30 days prior to the official date of sale in order to complete the temporary license process for the change of ownership.

- ☑ An owner is defined as any person with a five percent or greater equity interest in a child care facility. Any change that involves five percent or greater equity interest in a facility is considered an ownership change. Examples include: (1) sole proprietor to any type corporation or vice versa, or (2) adding or deleting one or more names from a license.
- ☑ If your ownership status changes in any manner such as from sole proprietor to a corporation, from corporation to sole proprietor, or from one corporation to another, the Division must be notified within 30 days. A new application will need to be completed and submitted in order for the Division to issue the appropriate license.
-  For more information about corporations, please contact the NC Secretary of State at <http://www.secretary.state.nc.us/Corporations/>.
- ☑ In addition to the Change of Owner form, the new owner must also submit the following:
  - A Facility Profile form.
  - Criminal Records Background Check packet completed by the new owner or his/her designee. See Chapter 2 for more details on the criminal records check process.
- ☑ Within six months of the Change of Ownership the new owner must submit:
  - New Building, Fire and Sanitation Inspection Reports.
  - Prelicensing workshop certificate. If the prospective operator has previously attended the workshop, verification of completion must be submitted.
- ☑ If previous staff continue to be employed at the center under the new owner, a new medical report or TB test is not required.
-  The Change of Owner form is available on the Division's web site at [www.ncchildcare.net](http://www.ncchildcare.net) under Providers / Provider Documents.

**CHILD CARE RULE .0204**  
**Change of Location of a Center**

-  When a licensed child care center is to be moved from one location to another, the operator must apply for a license for the new location.
-  The operator must notify the Division 30 days prior to the change of location of a child care center.
-  The operator must obtain the new license prior to occupying the new location.

- The operator must complete a new application packet. First, the Facility Profile form must be completed and sent to the child care consultant. Additional forms will need to be completed later in the process and will be supplied by the child care consultant.
- New building, fire and sanitation inspections must be completed for the new location prior to the issuance of a Temporary License.
- The operator may not occupy the new center until a license is received.

**CHILD CARE RULE .0204**  
**Change in Capacity of a Center**

-  A change in capacity can be requested in three situations:
  1. to use space that has been previously approved but has never been used
  2. to use new space
  3. to decrease the center's licensed capacity

- To use previously approved space that had never been used, the operator must submit a written request to the child care consultant. The child care consultant will verify the space had been previously approved by reviewing previous building, fire and sanitation inspections.
- When wanting to use new space, the local building, fire and sanitation inspectors must inspect the space, and written verification must be available. These inspections must be completed on approved inspection forms.

- ☑ The child care consultant must measure the new space and verify that it meets space, equipment, material and other applicable requirements before the area can be used by children.
- ☑ New space must be clearly identified on an updated floor plan for the center.
- ☑ The operator may not occupy the new space until a license is received.
- ☑ When wanting to decrease the capacity, the operator may send a written request to their child care consultant when they wish to decrease the licensed capacity. This request must state the number of children the operator wishes to care for. A new license will be issued to the center.

**CHILD CARE RULE .0204**

**Adding or Removing Restrictions from a License**

- ★ A change in restriction can occur in two situations:
  1. to add a new restriction
  2. to remove an existing restriction

- ☑ A restriction on a license limits the type of care that can be given at the center.
- ☑ When the operator conforms to a requirement previously found out of compliance, a restriction can be removed. Likewise, if an operator fails to conform to a requirement, a restriction can be added to the license.
- ☑ Restrictions on the number or age of children may be required by building code, fire code, local zoning requirements, sanitation requirements, or some combination of these.
- ☑ The addition or removal of a restriction is not effective until a new license has been issued reflecting the change.

**CHILD CARE RULE .0204**

**Reissuing a Current License**

- ★ Certain situations may require that a license be reissued to reflect current information about the operator or center.

- In certain circumstances, the name of the center or the owner may change. If an operator's name changes, such as due to marriage, a new license needs to be issued to reflect the name change.
- In some areas, street names may change or cities may switch from using route and box numbers to street number and name. A new license would need to be issued to reflect the current location address of the center.
- If the operator wishes to change the name under which the child care center does business without a change in ownership, a new license can be issued to reflect the new name.
- The reissuance of a license is not effective until all reports have been reviewed and the child care center has received a new license from the Division.
- All requests for the reissuance of a license must include a new Application - Facility Profile form to be completed.

## SECTION 3: COMPLIANCE HISTORY

### GENERAL STATUTE 110-90 & CHILD CARE RULE .0304 Compliance History

- ★ To maintain a license or Notice of Compliance, a child care facility must have a compliance history of at least 75% for the past 18 months or during the length of time the facility has operated.
- ★ A provisional license or provisional Notice of Compliance or other administrative action may be issued when a facility fails to maintain a compliance history of at least 75%.

- ☑ All centers will have a compliance history score generated prior to the issuance of a One to Five Star Rated License.
- ☑ The Division will assess the compliance history of a center by evaluating compliance with the child care requirements for the past 18 months, or during the length of time the center has been operating.
- ☑ Points are assigned for the occurrence of specific violations. The point value is based on the potential threat to the health and safety of children.
- 📁 A sample **Compliance History Assessment** sheet used to calculate the compliance history percentage is located in the resource section. The compliance score sheet show compliance points earned. Possible points earned will vary dependent upon the child care requirements monitored during visits.
- ☑ Points are assigned for each occurrence of violations of the following requirements:
  - supervision of children (6 points)
  - staff-child ratio (6 points)
  - program records (1-3 points)
  - health and safety practices (3-6 points)
  - discipline (6 points)
  - sanitation inspections (6 points)
  - adequate space (6 points)
  - nutrition and feeding practices(1-3 points)
  - staff qualifications and training (2-5 points)
  - transportation, if applicable (1-3 points)
  - developmentally appropriate activities (2-4 points)

# RESOURCE SECTION

## Chapter 7: LICENSES

**The following pages contain resource materials discussed in or related to the preceding chapter.**

Some of the resources are forms created by the Division of Child Development and must be used by licensed child care centers. Other materials are provided as a resource only for child care centers and can be used at the discretion of the center.

Center operators may also wish to use this section to add any additional resource materials they have that are related to the chapter or information that is specific to their child care center.