

34-B §1203-A. LICENSES

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Licenses to operate, conduct or maintain an agency or facility for the provision of mental health services as defined in section 3601 or for the provision of treatment as defined in chapter 6, subchapter 2, including facilities that are private nonmedical institutions, are governed as follows. [2003, c. 673, Pt. V, §6 (AMD); 2003, c. 673, Pt. V, §29 (AFF).]

1. Full license. Full licenses are governed as follows.

A. The commissioner shall issue a full license to an applicant agency or facility that has complied with:

- (1) All applicable laws and rules; and
- (2) All conditions imposed by the commissioner at the time of issuance of a conditional license, refusal to issue or renew a full license or revocation of a full license. [1989, c. 227, §1 (NEW).]

B. A full license must be issued for a specified period of time appropriate to the type of agency or facility, but not to exceed 3 years. [2003, c. 369, §1 (AMD); 2003, c. 369, §2 (AFF).]

C. When a full licensee fails to comply with applicable laws and rules, the commissioner may:

- (1) File a complaint with the District Court to have the license revoked, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375; or
- (2) Modify the full license to a conditional license in accordance with subsection 2. [1989, c. 227, §1 (NEW); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF).]

[2003, c. 369, §1 (AMD); 2003, c. 369, §2 (AFF) .]

2. Conditional license. Conditional licenses are governed as follows.

A. The commissioner may issue a conditional license to an agency or facility reapplying for a full license, if:

- (1) The applicant fails to comply with applicable laws and rules; and
- (2) In the judgment of the commissioner, the best interests of the public would be served by issuance of a conditional license. [1989, c. 227, §1 (NEW).]

B. The commissioner may modify an existing full license to a conditional license, after affording the full licensee an opportunity for hearing in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, if:

- (1) The applicant fails to comply with applicable laws and rules; and
- (2) In the judgment of the commissioner, the best interests of the public would be served. [1989, c. 227, §1 (NEW).]

C. A conditional license shall be issued for a specified period of time, not to exceed one year, or the remaining period of the previous full license, whichever the commissioner determines appropriate based on the nature of the violation of laws or rules. [1989, c. 227, §1 (NEW).]

D. A conditional license shall specify the conditions imposed by the commissioner and shall specify when those conditions shall be complied with during the term of the conditional license. [1989, c. 227, §1 (NEW).]

E. During the period of the conditional license, the licensee shall comply with all conditions imposed by the commissioner. [1989, c. 227, §1 (NEW).]

F. If the conditional licensee fails to comply with conditions imposed by the commissioner, the commissioner may initiate proceedings to revoke, suspend or refuse to renew the conditional license in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375. [1989, c. 227, §1 (NEW).]

[1989, c. 227, §1 (NEW) .]

3. Provisional license. Provisional licenses are governed as follows.

A. The commissioner may issue a provisional license to an agency or facility that:

- (1) Has not been previously licensed for the type of service for which application is made;
- (2) Is temporarily unable to comply with all applicable laws and rules; and
- (3) Is in compliance with specific laws and rules determined by the commissioner as essential for the protection of the residents or clients of the agency or facility. [1989, c. 227, §1 (NEW) .]

B. To obtain a provisional license, an applicant must demonstrate the ability to comply with all applicable laws and rules by the end of the term of the provisional license. [1989, c. 227, §1 (NEW) .]

C. A provisional license shall be issued for a specified period of time, which is at least 3 months but no longer than 12 months, as determined appropriate by the commissioner. [1989, c. 227, §1 (NEW) .]

[1989, c. 227, §1 (NEW) .]

4. Fees. The fee for all types of licenses is \$25, except for those facilities defined in Title 22, section 8101, subsection 4 and licensed in accordance with Title 22, section 8104.

[1989, c. 227, §1 (NEW) .]

5. Monitoring for compliance. Regardless of the term of the license, the commissioner shall monitor the licensee, at least once a year, for continued compliance with applicable laws and rules.

[1989, c. 227, §1 (NEW) .]

6. Appeals. Any person aggrieved by a final action of the commissioner under this section may obtain judicial review in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375.

[1989, c. 227, §1 (NEW) .]

7. Prohibited acts. Prohibited acts under this section are governed as follows.

A. An agency is guilty of unlicensed operation of a mental health service facility if it operates, conducts or maintains such a facility, not otherwise licensed as a hospital or medical care facility, without a license from the commissioner. [1989, c. 227, §1 (NEW) .]

B. Notwithstanding Title 17-A, sections 4-A and 1301, unlicensed operation of a mental health service facility is punishable by a fine of not more than \$500 or by imprisonment for not more than 60 days. [1989, c. 227, §1 (NEW) .]

[1989, c. 227, §1 (NEW) .]

SECTION HISTORY

1989, c. 227, §1 (NEW). 1999, c. 547, §B78 (AMD). 1999, c. 547, §B80 (AFF). 2003, c. 369, §1 (AMD). 2003, c. 673, §V6 (AMD). 2003, c. 369, §2 (AFF). 2003, c. 673, §V29 (AFF).

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