

**Rules and Regulations for
Enforcement of
Licensing Requirements**

Chapter 290-1-6

290-1-6-.01 Legal Authority.

These rules are adopted and published pursuant to the Official Code of Georgia Annotated (O.C.G.A.) Sections 31-2-6; 31-7-1, 31-13-1, 31-22-1, 31-23-1, 49-5-12 *et seq.*

Authority O.C.G.A. Sec. 31-2-6. **History.** Original Rule entitled "Legal Authority" adopted. F. Jul. 27, 1993; eff. Aug. 16, 1993.

290-1-6-.02 Title and Purposes.

These rules shall be known as the Rules and Regulations for Enforcement of Licensing Requirements. The purposes of these rules are to provide for actions by the department with respect to violations of licensing requirements by certain facilities subject to regulation by the department; to provide for inspections, investigations and examinations of such facilities; and to provide that certain facilities give notice of violations giving rise to the receipt of notice of the imposition of any sanction under federal or state laws or regulations.

Authority O.C.G.A. Secs. 31-2-6, 31-7-2.1, 31-7-3.2, 49-5-8. **History.** Original Rule entitled "Title and Purposes" adopted. F. Jul. 27, 1993; eff. Aug. 16, 1993.

290-1-6-.03 Definitions.

In these rules, unless the context otherwise requires, the terms set forth herein shall mean the following:

- (a) "Administrative action" means the initiation of a contested case as defined in the Georgia Administrative Procedures Act (APA), O.C.G.A. Sec. 50-13-2(2).
- (b) "Alter ego" means a person who acts pursuant to the control or influence of another while purporting to act independently.
- (c) "Commissioner" means the Commissioner of the Department of Human Resources.
- (d) "Department" means the Department of Human Resources, its agents and employees.
- (e) "Document" means any book, record, paper, or other information related to initial and continued licensing.
- (f) "Facility" means any agency, institution, entity or person subject to regulation by the department under Chapters 7, 13, 22, and 23 of Title 31, and under Chapter 5 of Title 49 of the Official Code of Georgia Annotated.
- (g) "Final Adverse Finding" means 1) the issuance of a ruling by the Commissioner on any appeal from a decision of a hearing officer or hearing examiner pursuant to a contested case involving the imposition of a sanction; 2) when a decision of the hearing officers or hearing examiner becomes final by operation of law because no appeal is made to the Commissioner; 3) where the parties to a contested case dispose of the case by settlement; or 4) where a facility does not contest within the allotted time period a sanction imposed by the department.
- (h) "Formal Order" means any ruling following an administrative or judicial hearing related to the initial or continued licensing of a facility which requires the facility to take or refrain from taking specified action. Formal orders include, but are not limited necessarily to final administrative hearing decisions and settlement agreements between the department and facilities. Additionally, formal orders, as defined herein, may include any orders issued by the Commissioner as authorized by current laws, such as O.C.G.A. Sec. 31-7-2.2 and O.C.G.A. Sec. 49-5-90 *et seq.*, or as authorized by similar statutes enacted after the effective date of these rules.
- (i) "Inspection" means any examination by the department or its representatives of a facility, including but not necessarily limited to the premises, and staff, persons in care, and documents pertinent to initial and continued licensing so that the department may determine whether a facility is operating in compliance with licensing requirements. The term "inspection" includes any survey, monitoring visit, or other inquiry conducted for the purpose of making a compliance determination with respect to licensing requirements.
- (j) "Investigation" means any examination, conducted in response to an allegation or allegations of noncompliance, by the department or its representative of a facility, including but not necessarily limited to the premises, and staff, persons in care, and documents pertinent to initial and continued licensing so that the department may determine whether a facility has violated any licensing requirement.
- (k) "License" means official authorization granted by the department pursuant to any of the provisions of law cited in Rule .01 to operate a facility. The term "license" includes any permit, registration, commission, or similar designation reflecting such authorization.
- (l) "Licensee" means any person holding a license.
- (m) "Licensing requirements" means any provisions of law, rule, regulation, or formal

order of the department which apply to facilities with respect to initial or continued authority to operate.

(n) "Management or Control", for the purpose of imposing the sanction pursuant to Rule .04(1)(c) or .04(2)(b), means the exercise of or authority to exercise direction, administration, or oversight over a facility's operations by certain persons which include owners, directors, or administrators.

(o) "Person" means any individual, agent, representative, governing authority, firm, organization, partnership, agency, association, corporation, facility, or other entity.

Authority O.C.G.A. Sec. 31-2-6. **History.** Original Rule entitled "Title and Purposes" adopted. F. Jul. 27, 1993; eff. Aug. 16, 1993.

290-1-6-.04 Enforcement.

The department shall have the authority to impose any one or more of the sanctions enumerated in paragraphs (1) and (2) of Rule .05, Sanctions, upon a finding that an applicant or licensee has:

- (a) Knowingly made any verbal or written false statement of material fact: 1) in connection with the application for a license; 2) on documents submitted to the department as part of any inspection or investigation; or 3) in the falsification or alteration of facility records made or maintained by the facility;
- (b) Failed or refused, without legal cause, to provide the department with access to the premises subject to regulation or information pertinent to the initial and continued licensing of the facility.
- (c) Failed to comply with the licensing requirements of this state; or
- (d) Failed to comply with the provisions of O.C.G.A. Section 31-2-6 or with the provisions of these rules.

Authority O.C.G.A. Sec. 31-2-6. **History.** Original Rule entitled "Enforcement" adopted. F. Jul. 27, 1993; eff. Aug. 16, 1993.

290-1-6-.05 Sanctions.

(1) Sanctions Against Licensees. When the department finds that any licensee has violated any provision of Rule .04, Enforcement, the department, subject to notice and opportunity for a hearing, may impose any one or more of the sanctions in subparagraphs (a) through (f) below.

(a) Administer a public reprimand.

1. If the sanction of public reprimand is finally imposed, as defined by a final adverse finding, the public reprimand shall consist of a notice prepared by the department that the facility has been reprimanded; such notice shall include a written report of the department's findings along with the facility's response and corrective action plan.

(i) Location of Notice. The facility shall post the notice in places readily accessible and continuously visible to persons in care and their representatives.

(ii) Timing of Notice. The facility shall post the notice on the day the notice is received by the facility and such notice shall remain posted for a period of ninety days.

(iii) During any period that the reprimand is required to be posted, the facility shall advise persons seeking services and representatives of persons seeking services of the reprimand.

In response to a notice by the department of the imposition of a public reprimand, a facility may request that the department not require the facility to advise persons seeking services and representatives of persons seeking services of the reprimand if such requirement would compromise its ability to provide services, and is not feasible given the facility's range of services and the ways its services are provided. Such request must be made within ten calendar days from receipt of the notice from the department. The department upon such a convincing showing, as well as a showing that the correction of the violation has been achieved and will be sustained by the facility, may elect not to enforce this requirement. If the department elects to enforce the requirement and the facility appeals the imposition of the sanction, the issue of this requirement may become an issue for consideration by the hearing examiner at any hearing held on the sanction, unless waived by the facility.

(b) Suspend any license for a definite period or for an indefinite period in connection with any condition which may be attached to the restoration of said license.

1. The department may impose the sanction of suspension for a definite period calculated by it as the period necessary for the facility to implement long-term corrective measures and for the facility to be deterred from lapsing into noncompliance in the future. As an alternative to suspending a license for a definite period, the department may suspend the license for an indefinite period in connection with the imposition of any condition or conditions reasonably calculated to elicit long-term compliance with licensing requirements which the facility must meet and demonstrate before it may regain its license.

2. If the sanction of license suspension is finally imposed, as defined by a final adverse finding, the department shall effectuate it by requiring the facility to return its license to the department. Upon the expiration of any period of suspension, and upon a showing by the facility that it has achieved compliance with licensing requirements, the department shall reissue the facility a license. Where the license was suspended for an indefinite period in connection with conditions for the re-issuance of a license, once the facility can show that any and all conditions imposed by the department have been met, the

department shall reissue the facility a license.

(c) Prohibition of Persons in Management or Control.

1. The department may prohibit a licensee from allowing a person who previously was involved in the management or control of any facility which has had its license revoked or application denied within the past twelve months to be involved in the management or control of such facility. Any such person found by the department to have acted diligently and in good faith to ensure correction of violations in a facility which has had its license revoked or denied, however, shall not be subject to this prohibition if that person became involved in the management or control of the facility after the facility was notified by the department of violations of licensing requirements giving rise to a revocation or denial action. This subparagraph shall not be construed to require the department to obtain any information that is not readily available to it regarding any person's involvement with a facility. For the purpose of this Rule, the twelve months period will begin to run from the date of any final adverse finding or the date that any stay of enforcement ceased, whichever first occurs.

(d) Revoke any license.

1. If the sanction of license revocation is finally imposed, as defined by a final adverse finding, the department shall effectuate it by requiring the facility to return its license to the department.

(e) Impose a fine, not to exceed a total of \$25,000, of up to \$1,000 per day for each violation of a law, rule, regulation, or formal order related to the initial or continued licensing of a facility; provided, however, that no such fines shall exceed \$25,000 for violations found during the same inspection and provided, further, that no fine may be imposed against any nursing facility, nursing home, or intermediate care facility which is subject to intermediate sanctions under the provisions of 42 U.S.C. Section 1396r(h)(2)(A), as amended, whether or not those sanctions actually are imposed. If a violation is found on two consecutive inspections there shall exist a rebuttable presumption that the violation continued throughout the period of time between each inspection.

1. Categories of Violations. Violations shall be assigned a category based upon the following criteria:

(i) Category I (\$601-\$1000 per violation per day): A violation or combination of violations of licensing requirements which has caused death or serious physical or emotional harm to a person or persons in care or poses an imminent and serious threat or hazard to the physical or emotional health and safety of one or more persons in care.

(ii) Category II (\$301-\$600 per violation per day): A violation or combination of violations of licensing requirements which has direct adverse effect on the physical or emotional health and safety of a person or persons in care.

(iii) Category III (\$50-\$300 per violation per day): A violation or combination of violations of licensing requirements which indirectly or over a period of time has or is likely to have an adverse effect on the physical or emotional health and safety of a person or persons in care, or a violation or violations of administrative, reporting, or notice requirements.

2. Fine Amounts. The specific amount of the fine for each violation in each category shall be determined based upon whether and when the particular or similar rule, law, or order,

or the act, omission, incident, circumstance, or conduct giving rise to the violation of the same regulatory requirement, or one substantially similar thereto, has been cited by the department previously. In no case, however, shall a facility be sanctioned for a violation characterized as a subsequent or repeat violation unless the time frame identified in the acceptable plan of correction has passed and the facility nonetheless has failed to attain or maintain correction.

(i) Initial violation. If the same or a substantially similar violation has not been cited previously by the department within the past twenty-four (24) months against the facility, it shall be considered to be an initial violation. The fine amount for initial violations shall be the bottom figure in the appropriate category.

(ii) Subsequent violation. If the present violation or a substantially similar violation had been found and cited by the department as the result of the last inspection of the facility, or as the result of any one other inspection during the previous twenty-four (24) months, the violations shall be considered to be a subsequent violation. The fine amount for subsequent violations shall be in the range between the top and bottom figures of the appropriate category and other factors, such as the existence of mitigating or aggravating circumstances, shall be considered in determining the fine amount within the range.

(iii) Repeat violation. If the present violation or a substantially similar violation also had been found and cited any two other times during the past twenty-four (24) months, it shall be considered to be a repeat violation. The fine amount for repeat violations shall be the top figure in the category.

3. Limitation of Fines. A single act, omission, incident, circumstance, or conduct shall not give rise to the imposition of more than one fine even though such act, omission, incident, circumstance, or conduct may have violated more than one licensing requirement. In such a case, the fine shall be based upon the highest category in which any one violation resulting from the same act, omission, incident, circumstance, or conduct falls. Correction by the facility of cited violations tolls the continuation of the assessment of the daily fine, provided, however, that the department shall confirm that such cited violations were corrected.

4. Financial hardships. In response to a notice by the department of the imposition a fine, a facility may request that the department reduce the fine amount if the fine would cause significant financial hardship that would compromise its ability to provide care or services in compliance with licensing requirements. The department, in its discretion, upon such a convincing showing as well as a showing that correction of the violation has been achieved and will be sustained by the facility, may reduce the amount of the fine. If the department proceeds with the imposition of the fine as proposed, the issue of significant financial hardship may become an issue for consideration by the hearing examiner at any hearing held on the sanction, unless waived by the facility.

5. In taking any action to impose a fine against any licensed or registered child welfare agency, such fine shall not exceed those amounts authorized pursuant to Chapter 5 of Title 49 of the Official Code of Georgia Annotated.

(f) Limit or restrict any license as the department deems necessary for the protection of the public (a provisional or temporary time-limited license granted by the department shall not be considered to be a limited or restricted license).

1. Limitation or restriction of a license may occur to: 1) prohibit the provision of a

particular service or services when a facility is unable or unwilling to render or perform the service or services in compliance with licensing requirements; 2) restrict the authorized number of persons cared for by a facility when the facility is unable or unwilling to render care in compliance with licensing requirements; and/or 3) prohibit a facility from caring for persons with specific types or degrees of needs that the facility is not capable of meeting in compliance with licensing requirements.

2. If the sanction of license limitation or restriction is finally imposed, as defined by a final adverse finding, the department shall effectuate it by sending the facility a restricted or limited license. Upon receipt of the restricted or limited license, the facility shall return to the department its original license. Upon expiration of the restriction or limitation period, and upon proof by the facility that it has taken effective corrective action and has sustained that action during the period of the sanction, the department shall fully restore the facility's license. The department shall take any steps it deems necessary to verify compliance prior to the expiration of the sanction period so that a compliant facility is restored its license without delay.

(2) Sanctions Against Applicants. When the department finds that any applicant for a license has violated any provision of Rule .04, Enforcement, the department, subject to notice and opportunity for a hearing, may impose any one or more of the following sanctions in subparagraphs (a) through (c) below.

(a) Refuse to grant a license (denial); provided, however, that the department may refuse to grant an initial license without holding a hearing prior to taking such action.

1. The department may deny an application for a license where the facility has failed to demonstrate compliance with licensing requirements. Additionally, the department may deny an application for a license where the applicant or alter ego of the applicant has had a license denied, revoked, or suspended within one year of the date of an application, or where the applicant has transferred ownership or governing authority of a facility within one year of the date of a new application when such transfer was made in order to avert denial, revocation, or suspension of a license. For the purpose of determining the one year denial period, the period shall begin to run from the date of the final adverse finding, or the date any stay of enforcement ceased, whichever first occurs. In further determining whether to grant or deny a license, the department may consider the applicant's overall record of compliance with licensing requirements.

(b) Prohibition of Persons in Management or Control.

1. The department may prohibit an applicant from allowing a person who previously was involved in the management or control of any facility which has had its license revoked or application denied within the past twelve months to be involved in the management or control of such facility. Any such person found by the department to have acted diligently and in good faith to ensure correction of violations in a facility which has had its license revoked or denied, however, shall not be subject to this prohibition if that person became involved in the management or control of the facility after the facility was notified by the department of violations of licensing requirements giving rise to denial action. This subparagraph shall not be construed to require the department to obtain any information that is not readily available to it regarding any person's involvement with a facility. For the purpose of this rule, the twelve month period will begin to run from the date of any final adverse finding or the date that any stay of enforcement ceased, whichever first

occurs.

(c) Limit or restrict any license as the department deems necessary for the protection of the public (a provisional or temporary time-limited license granted by the department shall not be considered to be a limited or restricted license).

1. Limitations or restrictions of a license may occur to: 1) prohibit the provision of a particular service or services when a facility is unable or unwilling to render or perform the service or services in compliance with licensing requirements; 2) restrict the authorized number of persons cared for by a facility when the facility is unable or unwilling to render care in compliance with licensing requirements; and/or 3) prohibit a facility from caring for persons with specific types or degrees of needs that the facility is not capable of meeting in compliance with licensing requirements. Additionally, the department may restrict a license where any applicant or alter ego of the applicant has had a license denied, revoked, or suspended within one year of the date of an application, or where the applicant has transferred ownership or governing authority of a facility within one year of the date of a new application when such transfer was made in order to avert denial, revocation, or suspension of a license. For the purpose of determining the one year denial period, the period shall begin to run from the date of the final adverse finding or the date any stay of enforcement ceased, whichever occurs first.

2. If the sanction of license limitation or restriction is finally imposed, as defined by a final adverse finding, the department shall effectuate it by sending the facility a restricted or limited license. Upon receipt of the restricted or limited license, the facility shall return to the department its original license if one was granted. Upon expiration of the restriction or limitation period, and upon proof by the facility that it has taken effective corrective action and has sustained that action during the period of the sanction, the department may issue the facility a license. The department shall take any steps it deems necessary to verify compliance prior to the expiration of the sanction period so that a compliant facility may be issued a license without delay.

(3) Standards for Taking Sanctions. In taking any of the actions pursuant to subparagraphs (1) or (2) of this rule, the department shall consider the seriousness of the violation or violations, including the circumstances, extent, and gravity of the prohibited act or acts or failure to act, and the hazard or potential hazard created to the physical or emotional health and safety of the public.

(4) Non-Compliance with Sanctions. Failure on the part of any facility to abide by any sanction, including payment of a fine, which is finally imposed against it, shall constitute grounds for the imposition of additional sanctions, including revocation.

(5) Settlements. With regard to any contested case instituted by the department pursuant to this Chapter or other provisions of law or regulation which may now or hereafter authorize remedial or disciplinary grounds and action, the department may, in its discretion, dispose of the action so instituted by settlement. In such cases, the department, the facility, and those persons deemed by the department to be successors in interest to any settlement agreement, shall be bound by the terms specified therein. Violation thereof by any applicant or licensee, their agents, employees, or others acting on their behalf, shall constitute grounds for the imposition of any sanctions enumerated in this Chapter, including revocation.

(6) With respect to any facility classified as a nursing facility, nursing home, or

intermediate care home, the department may not take an action to fine or restrict the license of any such facility based on the same act, occurrence, or omission for which:

- (a) the facility has received an intermediate sanction under the provisions of 42 U.S.C. Section 1396r(h)(2)(A), as amended, or 42 U.S.C. Section 1395i-3(h)(2)(B); or
- (b) such facility has been served formal notice of intent to take such a sanction which the Department of Medical Assistance, based on administrative review, or any other appropriate body, based on administrative or judicial review, determines not to impose, provided however, that nothing in this subparagraph or subparagraph (6)(a) above shall prohibit the department from using the provisions authorized by law in paragraph (5) above.

Authority O.C.G.A. Secs. 31-2-6, 31-7-4, 49-5-12. **History.** Original Rule entitled "Sanctions" adopted. F. Jul. 27, 1993; eff. Aug. 16, 1993.

290-1-6-.06 Investigations and Inspections.

(1) The department shall have the authority to make public or private investigations inside or outside this state. Such investigations may be initiated at any time, in the discretion of the department, and may continue during the pendency of any action initiated by the department pursuant to Rule .05 of this Chapter.

(2) Consent to Entry and Access. An application for a license or the issuance of the same by the department constitutes consent by the applicant or licensee and the owner of the premises for the department's representatives, after displaying identification to any facility staff, to enter the facility for the purpose of conducting an investigation or an inspection.

(a) Department representatives shall be allowed reasonable and meaningful access to the facility's premises, and information pertinent to licensure including staff and persons in care. The department shall have the authority to require the production of any documents related to the initial and continued licensing of any facility.

(3) Cooperation with Inspection. Facility staff shall cooperate with any inspection or investigation conducted by the department and shall provide, without unreasonable delay, any documents which the department is entitled hereunder.

(4) Assessment of Expenses. Pursuant to the inspection, investigation, and enforcement powers given to the department by O.C.G.A. Section 31-2-6 and other applicable laws, and the provisions of this Chapter, the department may assess against a facility reasonable and necessary expenses incurred by the department pursuant to any administrative or legal actions required by the failure of a facility to fully comply with licensing requirements. Such expenses may be assessed only pursuant to the initiation of sanction actions under this Chapter and may only be collected if such actions result in final adverse findings. A facility shall be notified of the department's action to assess expenses when the department sends a facility a notice of the sanction. If the sanction is appealed, the assessment may become an issue for consideration by the hearing examiner at any hearing held on the sanction.

(a) Reasonable and Necessary Expenses. Reasonable and necessary expenses, as used in this subparagraph, shall include, but not necessarily be limited to: hourly compensation of department representatives, commuting expenses (including mileage at the current state reimbursement rate), and lodging and meal expenses (at the rate approved for reimbursement by the state) associated with overnight out-of-town travel; and other similar costs. Assessments shall not include attorney's fees and expenses of litigation, shall not exceed actual expenses, and shall be made only if inspections, investigations, or enforcement actions result in final adverse findings.

(b) Payment of Assessed Expenses. Expenses assessed against a facility shall be paid within thirty days of receipt of a statement of expenses. In response to an assessment, a facility may request that the department reduce the assessment or agree to a payment plan if full payment within thirty days would cause significant financial hardship that would compromise its ability to provide care or services in compliance with licensing requirements. The issue of significant financial hardship caused by the assessment may become an issue for consideration by the hearing examiner at any hearing held on the sanction.

(5) When an investigation is initiated due to an allegation of noncompliance by any person acting on his or her own or another's behalf, the outcome of the investigation shall

be provided by the department to that person and to the facility upon request after the investigation is completed; provided however, that the names and identifying information regarding the complainants are classified as confidential. Nothing in this rule shall be construed to require the department to release the name or identifying information regarding a complainant without first obtaining proper authorization from such complainant. Nor shall this rule be construed to require the department to release any other confidential or privileged information without first obtaining proper authorization.

Authority O.C.G.A. Secs. 31-2-6, 31-5-5. **History.** Original Rule entitled "Investigations and Inspections" adopted. F. Jul. 27, 1993; eff. Aug. 16, 1993.

290-1-6-.07 Immunity.

For any action taken or any proceeding held under this Chapter or under color of law, except for gross negligence or willful or wanton misconduct, the department, when acting in its official capacity, shall be immune from liability and suit to the same extent that any judge of any court of general jurisdiction in this state would be immune.

Authority O.C.G.A. Sec. 31-2-6. **History.** Original Rule entitled "Immunity" adopted. F. Jul. 27, 1993; eff. Aug. 16, 1993.

290-1-6-.08 Exemptions.

In an administrative or legal proceeding under this Chapter, a person claiming an exemption or an exception granted by law, rule, regulation, or formal order has the burden of proving this exemption or exception.

Authority O.C.G.A. Sec. 31-2-6. **History.** Original Rule entitled "Exemptions" adopted. F. Jul. 27, 1993; eff. Aug. 16, 1993.

290-1-6-.09 Applicability of Administrative Procedures Act.

This Chapter and all sanction actions resulting from its provisions shall be administered in accordance with Chapter 13 of Title 50 of the Official Code of Georgia Annotated, the "Georgia Administrative Procedure Act." Any request for hearing in response to any sanction action undertaken pursuant to this Chapter shall be in writing and shall be submitted to the department no later than ten (10) calendar days from the date of receipt of any notice of intent by the department to impose a sanction setting forth the proposed sanction or sanctions and the basis therefore.

Authority O.C.G.A. Secs. 31-2-6, 50-13-18. **History.** Original Rule entitled "Applicability of Administrative Procedures Act" adopted. F. Jul. 27, 1993; eff. Aug. 16, 1993.

290-1-6-.10 Notice of Violations.

Where a nursing home or intermediate care home is required by the provisions of O.C.G.A. Section 31-7-3.2 to give notice of violations giving rise to the imposition of any sanction, the notice shall contain the information required by that code section and shall conform to the following requirements.

(a) Size and Format of Notice. The facility may post the Report of Licensure Inspection and Medicare/Medicaid Statement of Deficiencies, along with the notices by the department, the Department of Medical Assistance, and/or the Health Care Financing Administration of intent to impose any sanction. These may be posted in their original forms as the notice required by O.C.G.A. Section 31-7-3.2(a) and (b). If the facility chooses to post the notice of the agency taking the action and the Report of Licensure Inspection and Statement of Deficiencies, there shall be a conspicuous heading clearly visible from at least twenty feet away, calling the attention of the observer to them. As an alternative, the facility may post its own notice which accurately and thoroughly reflects the violations found which give rise to the sanctions imposed or proposed and which describes each sanction or notice of sanction issued by any of the above-described agencies. Any such notice shall be at least 11 1/2 inches by 17 1/2 inches in size. Words and letters shall be in bold print and shall be at least one centimeter in size.

(b) Location of Notice. The facility shall post the notice in a place readily accessible and continuously visible to persons in care and their representatives.

(c) Timing of Notice. The facility shall post the notices within fourteen days after it receives notification of the imposition of a sanction for a violation which requires the notice. The notices shall remain in place until the department has determined that cited violations no longer exist, at which time the notice may be removed.

(d) Mailing of Notices. Where any person has made a written request for a copy of the notice or notices, the facility shall mail the same to the requester within five (5) business days of receipt of the request when such request is accompanied by a postage paid self addressed envelope.

Authority O.C.G.A. Secs. 31-2-6, 31-7-2.1, 31-7-3.2. **History.** Original Rule entitled "Notice of Violations" adopted. F. Jul. 27, 1993; eff. Aug. 16, 1993.

290-1-6-.11 Applicability of Other Laws.

The provisions of this Chapter shall be supplemental to and shall not operate to prohibit the department from acting pursuant to those provisions of law which may now or hereafter authorize remedial or disciplinary grounds and action for the department. In cases where those other provisions of law so authorize other disciplinary grounds and actions, but this Chapter limits such grounds or actions, those other provisions shall apply.

Authority O.C.G.A. Sec. 31-2-6. **History.** Original Rule entitled "Applicability of Other Laws" adopted. F. Jul. 27, 1993; eff. Aug. 16, 1993.

290-1-6-.12 Inspection Warrants.

In addition to the enforcement actions authorized by this Chapter with respect to refusal to provide the department with access to a facility, the department may make application to a court of competent jurisdiction for an inspection warrant if its representatives are denied meaningful access to the premises, staff, persons in care, and documents or other information of a licensed facility or of a facility which the department believes is required to have a license but which does not have one. Upon the grant of such a warrant, the department may gain entry and meaningful access to such facility, its staff, persons in care therein, facility documents, and other information deemed pertinent by the department to making a compliance determination, unless the warrant specifically limits the entry or access allowed to department representatives. This rule shall not be construed to require the department to seek entry and be denied the same before it may apply for an inspection warrant.

Authority O.C.G.A. Secs. 31-2-6, 31-5-20 et seq.. **History.** Original Rule entitled "Inspection Warrants" adopted. F. Jul. 27, 1993; eff. Aug. 16, 1993.

290-1-6-.13 Injunctive Relief.

The department may, without regard to the availability of other remedies, including the remedies set forth in this Chapter, seek an injunction against the continued operation of a facility without a license. The department likewise may seek injunctive relief against the continued operation of a facility in violation of licensing requirements.

Authority O.C.G.A. Secs. 31-2-6, 31-5-9, 49-5-12. **History.** Original Rule entitled "Injunctive Relief" adopted. F. Jul. 27, 1993; eff. Aug. 16, 1993.

290-1-6-.14 Severability.

In the event that any rule, sentence, clause or phrase of any of these rules and regulations may be construed by any court of competent jurisdiction to be invalid, illegal, unconstitutional, or otherwise unenforceable, such determination or adjudication shall in no manner affect the remaining rules or portions thereof. The remaining rules or portions thereof shall remain in full force and effect as if such rule or portions thereof so determined, declared or adjudicated invalid or unconstitutional were not originally part of these rules.

Authority O.C.G.A. Sec. 31-2-6. **History.** Original Rule entitled "Severability" adopted. F. Jul. 27, 1993; eff. Aug. 16, 1993.

290-1-6-.14 Severability.

In the event that any rule, sentence, clause or phrase of any of these rules and regulations may be construed by any court of competent jurisdiction to be invalid, illegal, unconstitutional, or otherwise unenforceable, such determination or adjudication shall in no manner affect the remaining rules or portions thereof. The remaining rules or portions thereof shall remain in full force and effect as if such rule or portions thereof so determined, declared or adjudicated invalid or unconstitutional were not originally part of these rules.

Authority O.C.G.A. Sec. 31-2-6. **History.** Original Rule entitled "Severability" adopted. F. Jul. 27, 1993; eff. Aug. 16, 1993.