

135C.9 Inspection before issuance notice of deficiencies.

1. The department shall not issue a health care facility license to any applicant until:

a. The department has ascertained that the staff and equipment of the facility is adequate to provide the care and services required of a health care facility of the category for which the license is sought. Prior to the review and approval of plans and specifications for any new facility and the initial licensing under a new licensee, a resume of the programs and services to be furnished and of the means available to the applicant for providing the same and for meeting requirements for staffing, equipment, and operation of the health care facility, with particular reference to the professional requirements for services to be rendered, shall be submitted in writing to the department for review and approval. The resume shall be reviewed by the department within ten working days and returned to the applicant. The resume shall, upon the department's request, be revised as appropriate by the facility from time to time after issuance of a license.

b. The facility has been inspected by the state fire marshal or a deputy appointed by the fire marshal for that purpose, who may be a member of a municipal fire department, and the department has received either a certificate of compliance or a provisional certificate of compliance by the facility with the fire hazard and fire safety rules and standards of the department as promulgated by the fire marshal and, where applicable, the fire safety standards required for participation in programs authorized by either Title XVIII or Title XIX of the United States Social Security Act (42 U.S.C. § 1395 to 1395ll and 1396 to 1396g). The certificate or provisional certificate shall be signed by the fire marshal or the fire marshal's deputy who made the inspection. If the state fire marshal or a deputy finds a deficiency upon inspection, the notice to the facility shall be provided in a timely manner and shall specifically describe the nature of the deficiency, identifying the Code section or subsection or the rule or standard violated. The notice shall also specify the time allowed for correction of the deficiency, at the end of which time the fire marshal or a deputy shall perform a follow-up inspection.

2. The rules and standards promulgated by the fire marshal pursuant to subsection 1, paragraph "*b*" of this section shall be substantially in keeping with the latest generally recognized safety criteria for the facilities covered, of which the applicable criteria recommended and published from time to time by the national fire protection association shall be prima facie evidence. The rules and standards promulgated by the fire marshal shall be promulgated in consultation with the department and shall, to the greatest extent possible, be consistent with rules adopted by the department under this chapter.

3. The state fire marshal or the fire marshal's deputy may issue successive provisional certificates of compliance for periods of one year each to a facility which is in substantial compliance with the applicable fire hazard and fire safety rules and standards, upon satisfactory evidence of an intent, in good faith, by the owner or operator of the facility to correct the deficiencies noted upon inspection within a reasonable period of time as determined by the state fire marshal or the fire marshal's deputy. Renewal of a provisional certificate shall be based on a showing of substantial progress in eliminating deficiencies noted upon the last previous inspection of the facility without the appearance of additional deficiencies other than those arising from changes in the fire hazard and fire safety rules, regulations and standards which have occurred since the last previous inspection, except that substantial progress toward achievement of a good faith intent by the owner or operator to replace the entire facility within a reasonable period of time, as determined by the state fire marshal or the fire marshal's deputy, may be accepted as a showing of substantial progress in eliminating deficiencies, for the purposes of this section.

4. If a facility subject to licensure under this chapter, a facility exempt from licensure under this chapter pursuant to section 135C.6, or a family home under section 335.25 or 414.22, has been issued a certificate of compliance or a provisional certificate of compliance under subsection 1 or 3, or has otherwise been approved as complying with a rule or standard by the state or a deputy fire marshal or a local building department as defined in section 103A.3, the state or deputy fire marshal or local building department which issued the certificate, provisional certificate, or approval shall not apply additional requirements for

compliance with the rule or standard unless the rule or standard is revised in accordance with chapter 17A or with local regulatory procedure following issuance of the certificate, provisional certificate, or approval.

[C50, 54, § 135C.6; C58, 62, 66, 71, 73, 75, 77, 79, 81, § 135C.9]

97 Acts, ch 169, §19; 2001 Acts, ch 30, §1, 2