

Tom van der Veen

Authorized Signature

Number: APD-PT-16-017

Issue date: 5/13/2016

Topic: Licensing

Transmitting (check the box that best applies):

- New policy
 Policy change
 Policy clarification
 Executive letter
 Administrative Rule
 Manual update
 Other: _____

Applies to (check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> All DHS employees | <input type="checkbox"/> County Mental Health Directors |
| <input checked="" type="checkbox"/> Area Agencies on Aging | <input type="checkbox"/> Health Services |
| <input checked="" type="checkbox"/> Aging and People with Disabilities | <input type="checkbox"/> Office of Developmental Disabilities Services(ODDS) |
| <input type="checkbox"/> Self Sufficiency Programs | <input type="checkbox"/> ODDS Children’s Intensive In Home Services |
| <input type="checkbox"/> County DD Program Managers | <input type="checkbox"/> Stabilization and Crisis Unit (SACU) |
| <input type="checkbox"/> ODDS Children’s Residential Services | <input type="checkbox"/> Other (please specify): |
| <input type="checkbox"/> Child Welfare Programs | |

Policy/rule title:	Licensing Visits Pending Action to Terminate an APD Adult Foster Home License		
Policy/rule number(s):	OAR 411-050-0600 to 411-050-0690	Release no:	
Effective date:	Immediately upon issuance	Expiration:	
References:	OAR 411-050-0670, Inspections		
Web address:			

Discussion/interpretation: This policy clarifies expectations for the local licensing authority when the termination of an adult foster home license is under way. These circumstances include: (a) when a Notice of Non-Renewal or Revocation has been served on the Provider, but a Final Order has not yet issued; (b) when the Provider’s license is scheduled to expire after a Notice of Non-Renewal or Revocation has been served, but a Final Order has not been issued. The following questions pertain specifically to circumstances when the Department is issuing a notice of intent to revoke or non-renew a provider’s license and is waiting for the final order:

1. Should the local licensing authority process the renewal application and conduct the annual licensing inspection as usual?
2. Should the local licensing authority conduct monitoring visits? If yes, what should the frequency of those visits be?

Implementation/transition instructions:

1. During the License Renewal Period

When a license is due to expire pending an action to terminate the license, conducting a renewal inspection may seem inconsistent with the Department's intent to revoke or not renew the license. However, under current law, once a Notice of Revocation or Non-renewal has been served, the Provider's license remains in full force and effect until a Final Order has been issued. OAR 411-050-0687(6). Final Orders may be issued "by Default" because the Provider did not appeal the Notice; or may be issued after a contested case hearing has resulted in a Final Order of the Department.

In circumstances when the provider's license is due to expire during the agency's action to revoke or non-renew the license, the local Licensor will conduct a renewal inspection as usual, according to OAR 411-050-0640.

This action will help to avoid unnecessary delays in the renewal process in the event the agency's proposed action is withdrawn or not upheld by the Administrative Law Judge in a contested case hearing. However, the renewal license itself must not be issued pending the outcome of revocation or non-renewal of the license.

2. Monitoring Visits

Regular monitoring visits are critical during this period to help protect residents against any conditions that may pose a threat to their health, safety or welfare. The frequency of monitoring visits is determined by the local licensing authority after taking into consideration the specific safety concerns.

Excessive monitoring may create an impression the local licensing authority is targeting the Provider. On the other hand, too little monitoring may imply the local licensing authority lacks concern about the current operation of the home, contrary to the pending action to terminate the home's license.

If there is not a significant ongoing safety concern, every other week or possibly monthly monitoring visits may be appropriate. To determine the frequency of monitoring visits, the local licensing authority should:

1. Identify any ongoing safety concerns.
2. Consider how many monitoring visits are necessary to ensure specific violations are corrected.
3. Identify any safety threat if cited violations have not been corrected.

The nature of the monitoring visits must correspond with the specific safety concerns. For example, if the licensee’s medication administration system has been identified as an area of non-compliance contributing to the Department’s action to terminate the license, the monitoring visits will include an inspection of the residents’ medication records (Medication Administration Records, doctor’s orders, written parameters, etc.).

New violations should be cited on a Notice of Violations form (SDS 517B). However, the goal of the monitoring visit is *not* to find more violations, especially if they are not related to the reasons for proposed closure. While health and safety violations cannot be ignored, “hunting” for additional violations may be perceived as harassment.

Training/communication plan: This policy will be posted on the Licensing Staff Tools Intranet site.

Local/branch action required: Implement this policy upon issuance and contact OLRO or APD Central Office with any questions.

Central office action required: Respond to requests for clarification as needed.

Field/stakeholder review: Yes No

If yes, reviewed by: APD Policy; APD Operations Committee

Filing instructions:

If you have any questions about this policy, contact:

Contact(s):	Sylvia Rieger		
Phone:	503-373-2133	Fax:	503-373-2228
Email:	Sylvia.A.Rieger@state.or.us		