

(Rule 1240-4-3-.03, continued)

- (b) All programs shall operate within any restrictions stated on the license.

**Authority:** T.C.A. §§4-5-202, 71-1-105(5), 71-3-501 et seq., 71-3-502(a)(2) and (3), and 71-3-503(a)(6),(8), and (9). **Administrative History:** Original rule certified June 10, 1974. Amendment filed April 3, 1980; effective May 18, 1980. Repeal and new rule filed October 6, 1986; effective November 20, 1986. Amendment filed January 7, 1987; effective April 29, 1987. Amendment filed April 22, 1992; effective June 6, 1992. Amendment filed July 1, 1993; effective September 14, 1993. Repeal and new rule filed May 26, 1998; effective August 9, 1998. Stay of effective date of repeal and new rule filed July 21, 1998; new effective date August 31, 1998. Stay of effective date filed by the Government Operations Committee of the Tennessee General Assembly on August 28, 1998; new effective date October 31, 1998. Withdrawal of repeal of 1240-4-3-.03(4)(f) and (1) filed August 31, 1998. Amendment filed September 29, 2000; effective December 13, 2000. Repeal and new rule filed June 20, 2006; effective September 3, 2006.

#### 1240-4-3-.04 PROCEDURES FOR OBTAINING A LICENSE.

- (1) Licensing Procedures.
- (a) The procedures for licensing, administrative actions, probation, civil penalties, and suspension, denial, revocation of licenses and appeals of licensing actions taken by the Department are contained in Chapters 1240-4-5, 1240-5-13 and this Chapter.
- (b) The Department may initiate administrative licensing action and/or judicial action against the licensee pursuant to any provisions of T.C.A. § 71-3-501 et seq. and Chapters 1240-4-5, 1240-5-13, this Chapter or any other provisions of the law.
- (c) Any conflict between the definitions and procedures contained in Chapters 1240-4-5 and 1240-5-13 and this Chapter shall be resolved by reference to the provisions of this Chapter.
- (2) When an individual or group is giving consideration to opening a child care service/business, the local county office of the Tennessee Department of Human Services must be contacted to obtain an application.
- (3) The applicant shall attend one pre-application training session as provided by the Department. In the case of a program that is governed by a board of directors or trustees, this training shall be attended by the applicant. If the applicant is not responsible for the day-to-day management of the program, this training shall be attended by both the applicant and the individual responsible for the day-to-day management.
- (4) In addition to the training required in paragraph (3) above, new directors/managers shall attend a pre-service orientation training as provided by the Department and which is at least four (4) hours in length. In the case of a program that is governed by a board of directors or trustees, this training shall be attended by an individual who is responsible for the day-to-day management of the program.
- (5) A completed application form shall be signed by the owner or the owner's authorized representative and shall be submitted to the Department in the form and manner directed by the Department.
- (a) The failure to fully complete all application forms and/or submit all required supporting documentation as directed by the Department shall void the application for a license.
- (b) Application fees must be submitted by certified check or money order prior to the issuance of a license; provided, however, that government agencies may submit checks drawn on government accounts.

(Rule 1240-4-3-.04, continued)

- (6) Issuance of a Temporary License to New Child Care Agencies shall require:
  - (a) Submission of all required application documentation and the license fee;
  - (b) Verification that the administrative structure of the agency, as required by subchapter 1240-4-3-.05, appropriately identifies and provides structures and procedures for the full-time management of the center;
  - (c) Verification that the qualifications for management positions fully comply with the requirements in Chapter 1240-4-3-.07 and subparagraph (j) below;
  - (d) Verification of three (3) satisfactory written references for the director/management;
  - (e) Verification that the physical facilities have received fire safety and environmental approval;
  - (f) Verification that the on-site director/manager has successfully completed a criminal background check and has a negative criminal history as required by T.C.A. § 71-3-507 and this Chapter;
  - (g) Verification that the applicant and the personnel who will care for the children are capable in all substantial respects to care for the children;
  - (h) Verification that the applicant has the apparent ability and intent to comply with the licensing law and regulations;
  - (i) Verification by the Department, after appropriate on-site inspection, that the site is suitable for child care activities and does not endanger the welfare or safety of children;
  - (j) Verification that the applicant, owner, director or an employee of the agency has not previously been associated in an ownership or management capacity with any child care agency that has been cited by the Department for violations of this part or the Department's regulations, including the agency for which the application is pending, unless the Department determines that a reasonable basis exists to conclude that such individual is otherwise qualified to provide child care; and
  - (k) Verification that the criteria in 1240-4-3-.03(3) support the issuance of a restricted or unrestricted license.
- (7) Denial or Restriction of Temporary License.
  - (a) If the Department determines that any of the requirements set forth in this Chapter has not been, or cannot be, satisfactorily met, then it may deny the application for a temporary license.
  - (b) If the Department determines that the conditions of the applicant's facility, its methods of care or other circumstances warrant, it may issue a restricted temporary license that permits operation of a child care agency, but limits the agency's authority in one (1) or more areas of operation.
  - (c) Appeals of the denial or restriction of a license are governed by Chapters 1240-4-5 and 1240-5-13.

(Rule 1240-4-3-.04, continued)

- (8) Terms of the Temporary Licensure Period.
- (a) The temporary license shall remain in effect, unless suspended, for a period of one hundred and twenty (120) days, or until such time as the Department grants or denies the application for an annual license, whichever is later.
  - (b) During the temporary licensure period the licensee must attain and maintain compliance with all applicable licensing regulations. The failure to obtain and maintain such compliance during this period may result in the denial of the application for an annual license.
- (9) Evaluation Process for Annual License During the Temporary Licensing Period.
- (a) The temporary license is issued to authorize the temporary licensee to begin child care operations while the agency attempts to attain full compliance with all other applicable regulations.
  - (b) The Department shall perform a minimum of two (2) visits to the child care center during the temporary licensing period, at least one (1) of which shall be unannounced.
  - (c) The Department shall perform at least one (1) observation of the caregivers' interaction with children during the temporary licensing period.
  - (d) During the temporary licensing period, the applicant must provide verification, including any required supporting documentation as directed by the Department, of compliance with all applicable licensing regulations and further, that the applicant otherwise meets, or has continued to meet, all the requirements set forth in paragraph (6) above.
  - (e) During the temporary licensure period the Department shall determine whether an annual or restricted annual license shall be issued to the applicant.
  - (f) If the Department determines that any of the requirements set forth in this Chapter has not been, or cannot be, satisfactorily met then it may deny the application for an annual license.
  - (g) If the Department determines that the conditions of the applicant's facility, its methods of care or other circumstances warrant, it may issue a restricted temporary license that permits operation of a child care agency, but limits the agency's authority in one (1) or more areas of operation.
  - (h) Issuance of an Annual License. The Department shall issue an annual license if the Department determines that the applicant:
    - 1. Has fully complied with all laws and regulations governing the specific classification of child care agency for which the application was made; and
    - 2. Has demonstrated a reasonable probability that the applicant can maintain compliance with all licensing regulations during the annual license period.
    - 3. Upon issuance of an annual license, the licensee must maintain compliance with all applicable licensing regulations and restrictions on the license, if any, throughout the licensing period.

(Rule 1240-4-3-.04, continued)

- (10) Re-Licensure Evaluation Process.
- (a) Agencies currently licensed by the Department must submit an application for re-licensure prior to the expiration of the existing license. The failure to submit a complete application prior to the expiration of the current license shall result in the automatic termination of the annual license upon the expiration date, and a new application for a temporary license will be required.
  - (b) In addition to the evaluation requirements set forth in paragraphs (6) and (9) above, applicants for re-licensure shall be evaluated for the Report Card and Star-Quality Child Care Program as set forth in Chapter 1240-4-7.
  - (c) Upon demonstration of compliance with all laws and regulations governing the specific classification of child care agency for which the application was made; and, if the applicant has demonstrated a reasonable probability that the applicant can maintain compliance with all licensing regulations during the annual license period, the Department shall issue a new annual license.
  - (d) If the Department determines that any of the requirements set forth in this Chapter has not been, or cannot be, satisfactorily met, then it may deny the application for an annual license.
  - (e) If the Department determines that the conditions of the applicant's facility, its methods of care or other circumstances warrant, it may issue a restricted annual license that permits operation of a child care agency, but limits the agency's authority in one (1) or more areas of operation.
- (11) Upon receipt of an application for a license, and throughout the temporary licensing period and during the annual licensing period, immediate access to all areas of the child care facility shall be granted to all Department representatives and other inspection authorities (i.e., fire safety, sanitation, health, Department of Children's Services, etc.) during operating hours.
- (12) If the Department determines, as a result of its inspections or investigations or those of other local, state or federal agencies or officials, or through any other means, that a plan is necessary to insure the safety of the children in the care of the child care center the Department may require the center to implement such safety plan.

**Authority:** T.C.A. §§4-5-202, 71-1-105(5), 71-3-501 et seq., 71-3-502(a)(2), and 71-3-508(c). *Administrative History:* Original rule certified June 10, 1974. Amendment filed April 3, 1980; effective May 18, 1980. Repeal and new rule filed October 6, 1986; effective November 20, 1986. Amendment filed April 22, 1992; effective June 6, 1992. Repeal and new rule filed May 26, 1998; effective August 9, 1998. Stay of effective date of repeal and new rule filed July 21, 1998; new effective date August 31, 1998. Stay of effective date filed by the Government Operations Committee of the Tennessee General Assembly on August 28, 1998; new effective date October 31, 1998. Repeal and new rule filed June 20, 2006; effective September 3, 2006.

#### **1240-4-3-.05 OWNERSHIP, ORGANIZATION, AND ADMINISTRATION.**

- (1) Required Written Statement of Agency's Purpose.
- (a) An applicant for a license to operate a child care agency shall submit a written statement in the form and manner directed by the Department which provides the following information:
    1. A description of all services to be offered to children and parents;
    2. Ages of children to be served;
    3. Planned hours of operation;