



Arkansas Department of Labor & Licensing

Sarah Huckabee Sanders, Governor
Daryl E Bassett, Secretary

MEMORANDUM

TO: All ADLL Directors
FROM: Daryl Bassett, Secretary
RE: Required Final Notice to Administratively Suspend or Revoke a License;
Exception for Emergency Situations
DATE: March 26, 2023; revised June 22, 2023

Standard pre-suspension or revocation procedure

Pursuant to the 2014 Arkansas Supreme Court case of Chandler v. Martin, 2014 Ark. 219, 433 S.W. 3d 884, prior to the administrative suspension or revocation of a professional license, the licensee must be given notice and the opportunity to show that all requirements to renew or otherwise maintain the license in good standing have been submitted, i.e., that their licensing fee wasn't lost in the mail or misapplied, that a background check violation did not actually pertain to another person, etc.

Accordingly, effective immediately, please ensure that:

1. For any suspension or revocation of a license other than by formal action of the board, commission, or other licensing entity, the following language is included in the notice of suspension or revocation: "Please be advised that your license will be suspended/revoked effective [date – at least 30 days later, extended to the next business day following a Saturday, Sunday, or legal holiday] for [reason(s)]. If you believe that a mistake was made in the suspension or revocation of your license, you may request a hearing before the [licensing entity] within 30 days of this notice."; and
2. A copy of the notice is maintained as a permanent record (this may be done electronically).

PLEASE NOTE that this notice requirement does not apply if the license is suspended or revoked pursuant to notice and hearing by the licensing entity.

Emergency Procedure

The second sentence of Arkansas Code § 25-15-211(c) states as follows:

If the agency finds that public health, safety, or welfare imperatively requires emergency action and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action, which proceedings shall be promptly instituted and determined.

See also Board Member Handbook, p. 40 (revised January 2020) (“An agency can summarily suspend a license under Ark. Code Ann. § 22-15-211(c) if the public health, safety, or welfare imperatively requires emergency action.”). Thus, a license may be administratively suspended or revoked only if: (1) a board, commission, section, or division makes a specific finding that it is critical or of vital importance to protect the public health, safety, or welfare to take emergency action to suspend or revoke the license; and (2) formal proceedings concerning the suspension, revocation, or other action are promptly instituted.

Prior to summarily suspending or revoking a license, a Director shall consult the Department’s Secretary, Chief of Staff and Chief Legal Counsel, its Attorney General Counsel, and the Chair of the board, commission, section, or division. If emergency action is determined to be appropriate, a draft order with specific findings concerning the reasons why the public health, safety, or welfare imperatively requires emergency action shall be prepared for expedited presentation to the licensing entity for approval.¹ The order shall also schedule a prompt hearing before the licensing entity to address the suspension or revocation, to take other action, or both, and require notice of the hearing to the licensee.

Please call Dan Parker at 501-682-4502 if you have any questions regarding this policy.

¹ Endangering the public health, safety, and welfare (the Board Order alleged that Dr. Kale over-prescribed at least one and as many as seven medications to 11 individuals) was found to be sufficient justification for an emergency order in *Kale v. Jouett*, 2006 U.S. Dist. LEXIS 110823 (W.D.Ark.).