

WAC 110-302-0440 Facility licensing compliance agreements, non-referral status, probationary license, and ONB provider rights. (1)

At the department's discretion, when an ONB provider is in violation of chapter 43.216 RCW or this chapter, a facility licensing compliance agreement (FLCA) may be issued in lieu of the department taking enforcement action. The FLCA must contain:

(a) A description of the violation and the law or rule that was violated;

(b) A proposed plan from the ONB provider or a designee to comply with the law or rule;

(c) The date the violation must be corrected, determined by:

(i) The seriousness of the violation;

(ii) The potential threat to the health, safety, and well-being to the children in care; and

(iii) The number of times the ONB program has violated this chapter or chapter 43.216 RCW;

(d) Information regarding other licensing action that may be imposed if compliance does not occur by the required date; and

(e) The signature of the department licensor and the licensee.

(2) ONB providers must return a copy of the completed FLCA to the department after corrective action has been completed and by the date indicated.

(3) ONB providers may request an internal review process regarding the violation of the department rules pursuant to RCW 43.216.395.

(4) In an enforcement action against an ONB program or an ONB provider, ONB providers have the right to refuse to:

(a) Accept or sign a FLCA.

(b) Agree to a probationary license.

(5) If a provider refuses a FLCA or probationary license, this may result in any of the following enforcement actions:

(a) Modification of the license;

(b) Noncontinuation of a nonexpiring license;

(c) Suspension of the license;

(d) Revocation of the license; or

(e) Civil penalties.

(6) The department may place a provider on nonreferral status, pursuant to RCW 43.216.325(4), in addition to or in lieu of an enforcement action.

(7) A probationary license may be issued to ONB programs or ONB providers operating under a nonexpiring license as part of a corrective action plan. Prior to issuing a probationary license, the department must refer the ONB program or ONB provider for technical assistance, pursuant to RCW 43.216.320(2).

(8) A department decision to issue a probationary license is based on an ONB program or ONB provider's:

(a) Negligent or intentional noncompliance with this chapter or chapter 43.216 RCW;

(b) History of noncompliance with this chapter or chapter 43.216 RCW;

(c) Current noncompliance with this chapter or chapter 43.216 RCW;

(d) Fire safety inspection or health and sanitation inspection report that failed to gain approval;

(e) Use of unauthorized space for the ONB program;

(f) Inadequate supervision of children;

(g) Understaffing for the number of children in care;

(h) Noncompliance with requirements addressing children's health, proper nutrition, discipline, emergency medical plan, sanitation or personal hygiene practices; and

(i) Any other factors relevant to the specific situation and consistent with the intent or purpose of this chapter or chapter 43.216 RCW.

(9) The department must not issue a probationary license if the noncompliance by the ONB provider or program presents an immediate threat to the health and well-being of the children.

(10) When the department issues a probationary license, the provider must:

(a) Provide notice of the probationary license and a copy of the department's probationary licensing agreement to the parents or guardians of enrolled children within five business days of receiving the probationary license;

(b) Provide documentation to the department that parents or guardians of enrolled children have been notified within 10 business days of receiving the probationary license;

(c) Inform new parents or guardians of the probationary status before enrolling new children into care;

(d) Return the ONB program's nonexpiring license to the department; and

(e) Post documentation of the approved written probationary license as required by RCW 43.216.687.

(11) Pursuant to RCW 43.216.689, ONB providers must have inspection reports and notices of enforcement actions for the past three years readily available for review by the department, parents, guardians, and the public.

[Statutory Authority: RCW 43.216.742. WSR 23-10-059, § 110-302-0440, filed 5/1/23, effective 6/1/23.]