#### 7335 Documenting Granted Voluntary Suspensions

LPPH July 2012

Procedure

When the voluntary suspension is approved, the inspector:

a. changes the operating status to *No* and updates the *Effective Date* to reflect the *Begin Date* of the voluntary suspension on the *Operation Main* page in CLASS;

b. enters a *Chronology* in CLASS outlining the date requested for the voluntary suspension and the date projected for reopening; and

c. completes the following fields on the *Provider Voluntary Suspension Plan* page in CLASS:

• *Begin Date*

• *Reason*

• *Disaster Name* (if applicable)

• *Correction Plan* (to enter details regarding suspension, including projected reopening date)

#### 7337 Reopening the Operation

LPPH July 2012

Procedure

When Licensing receives a notice that an operation is reopening, the inspector:

1. inspects the operation before the planned reopening, and follows up, if necessary, after children are in care;

b. evaluates compliance with minimum standard rules that were affected during the time the operation was closed, allowing time for correction;

c. updates the operation’s record, if needed (for example, when changes are made to the operation’s floor plan);

d. prepares a recommendation to amend the operating permit, if needed (for example, if the operation’s capacity is changed); and

e. returns the permit to the operation.

See: [4120](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.jsp#LPPH_4120) Types of Inspections

Documenting the End of a Voluntary Suspension When an Operation Reopens

When the operation reopens, the inspector:

• changes the operating status to *Yes* and updates the *Effective Date* to reflect the *End Date* of the voluntary suspension on the *Operation Main* page in CLASS; and

• completes the *Result of Suspension* and *End Date* fields on the *Provider Voluntary Suspension Plan* page in CLASS.

### 7340 Voluntary Closure

LPPH July 2012

Policy

Licensing rules require that an operation notify the inspector before, if possible, or within 10 days after going out of business or closing. Fees are not refundable when an operation closes.

If an operation is closing for a period of time but plans to reopen, see [7330](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7000.jsp#LPPH_7330) Voluntary Suspension.

Texas Human Resources Code [§42.071](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.071)

DFPS Rules, 40 TAC §§[745.8533](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=8533); [746.301](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=746&rl=301)

Procedure

When Licensing is notified that an operation is going to voluntarily close, the inspector takes the following steps:

a. Changes the operating status to *No* and updates the *Effective Date* to reflect the *Begin Date* of the voluntary closure on the *Operation Main* page in CLASS

b. Enters the closure date in the *Application/Closure* page in CLASS

c. Enters the reason for closure in the *Application/Closure* page in CLASS

##### 7633.9 Update Operating Status

LPPH July 2012 (new item)

Procedure

When Licensing suspends or revokes an operation’s permit, the inspector changes the operating status to *No* and updates the *Effective Date* to reflect the *Begin Date* of the suspension or revocation on the *Operation Main* page in CLASS

#### 7637 Emergency Suspension and Closure

LPPH July 2012

Policy

The inspector initiates emergency suspension and closure when there is an immediate risk to the health or safety of children attending or residing in the operation. The inspector, in consultation with a Licensing attorney, may choose to seek injunctive relief rather than using emergency suspension and closure. This may occur at any time in the regulatory process. See [7740](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.jsp#LPPH_7740) Injunctive Relief.

The decision to suspend and order immediate closure is made by the director.

The inspector discusses the decision to suspend and order immediate closure with the Licensing attorney before implementation.

The inspector documents the action in CLASS chronology.

Texas Human Resources Code [§42.073](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.073)

DFPS Rules, 40 TAC [§745.8877](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=8877)

Procedure

After consulting with legal staff, the inspector carries out the process for emergency suspension and closure described in the items below.

##### 7637.8 Update Operating Status

LPPH July 2012 (new item)

Procedure

Licensing staff change the operating status to *No* and update the *Effective Date* to reflect the *Begin Date* of the emergency suspension or emergency closure on the *Operation Main* page in CLASS.

### 7810 Automatic Suspensions

LPPH July 2012

Policy

The permit for a *licensed or registered operation* is automatically suspended if the annual permit fee is not paid by the due date.

The permit for a *listed family home* is automatically suspended if the listed family home does not:

• submit the information required for a background check within 24 months of the date the last background check was conducted; or

• pay the annual permit fee by the due date.

An operation that is exempt from paying the annual fee is not subject to an automatic suspension for failure to pay the annual fee.

Automatic suspensions are not subject to an administrative review or a due process hearing.

Texas Human Resources Code §§[42.052(j)-(j-1)](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.052); and [42.054](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.054)

Procedure

By the 10th day of the month, Licensing staff complete the tasks listed below when a permit has been automatically suspended because:

• the operation did not pay the annual permit fee by the last day of the previous month; or

• the listed family home did not submit the information required for a background check by the due date in the *BGC Reminder Letter* (see [5280](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5000.jsp#LPPH_5280) Background Check Reminder Letter – Listed Family Homes Only).

Steps When a Permit Has Been Automatically Suspended

1. Change the operating status to *No* and update the *Effective Date* to reflect the *Begin Date* of the automatic suspension on the *Operation Main* page in CLASS.

2. Complete the *Provider Voluntary Suspension Plan* page in CLASS, as outlined in procedures below.

3. Draft the appropriate auto-suspension letter (see [7811](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.jsp#LPPH_7811) Auto-Suspension Letters).

4. Save the auto-suspension letter to the *Provider Voluntary Suspension Plan* page in the CLASS system by:

• copying the text from the completed auto-suspension letter into Form 2834A FPS Letterhead on the *Provider Voluntary Suspension Plan* page in CLASS; and

• saving the letter with the appropriate name (see [7811](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.jsp#LPPH_7811) Auto-Suspension Letters).

5. Print a copy of the final version of the auto-suspension letter from CLASS.

6. Mail the printed auto-suspension letter and Form 2748 Voluntary Closure Request to the operation through regular mail.

7. Enter a [Chronology](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.jsp#LPPH_7811) documenting:

• why the permit was automatically suspended;

• when the permit was automatically suspended;

• the date the auto-suspension was mailed; and

• the due date for compliance.

8. Enter a *To-Do* in CLASS to alert the Licensing staff assigned to the operation that an automatic revocation will be due six months (180 days) from the date the auto-suspension letter is mailed, if the operation does not come into compliance by the due date indicated on the auto-suspension letter.

A permit is not automatically suspended for failure to pay the annual fee if the operation or listed family home is exempt from paying annual fees. See [5211](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5000.jsp#LPPH_5211) Exemptions from Fees.

Licensing staff do not offer an administrative review or a due process hearing if a listing is automatically suspended.

Completing the Provider Voluntary Suspension Plan Page in CLASS

Procedure

To document the automatic suspension in the electronic record, Licensing staff enters the following information in the *Provider Voluntary Suspension Plan* page in CLASS:

1. the date the automatic suspension began in the *Begin Date* field;

b. the date the automatic revocation will be due if compliance is not met in the *Correction Plan* field; and

c. one of the following in the *Reason* field:

• *Auto-Suspension, Fees* – if the automatic suspension is due to a licensed or registered operation or listed family home’s failure to pay the annual fee

*• Auto-Suspension, Background Checks – LH*, if the automatic suspension is due to a listed family home’s failure to submit the information required for a subsequent background check

*• Auto-Suspension, BGCs/Fees – LH*, if the automatic suspension is due to a listed family home’s failure to:

• submit information required for subsequent background checks; and

• pay the annual listing fee.

#### 7812 Ending the Automatic Suspension

LPPH July 2012

If the operation home comes into compliance with the reason for the automatic suspension within the required time frame, Licensing staff complete the following tasks to end the automatic suspension:

1. Update the *Provider Voluntary Suspension Plan* page in CLASS by:

• entering the date the automatic suspension ends in the *End Date* field;

• entering *Operating* in the *Result of Suspension* field; and

• documenting how the home came into compliance in the *Correction Plan* field.

2. Complete [Form 2744](http://www.dfps.state.tx.us/Application/FORMS/showFile.aspx?Name=2744.doc) Auto-Suspension End, located in the DFPS Automated Forms System.

3. Save Form 2744 to the Provider Voluntary Suspension Plan page in the CLASS system by:

• copying the text from the completed form into Form 2834A FPS Letterhead on the *Provider Voluntary Suspension Plan* page in CLASS; and

• saving the letter with the name of *AutoSuspend-End.*

4. Print a copy of the final version of the *AutoSuspend-End* letter from CLASS.

5. Mail the printed *AutoSuspend-End* letter to the operation regular mail.

6. Change the operating status to *Yes* and update the *Effective Date* to reflect the *End Date* of the automatic suspension on the *Operation Main* page in CLASS.

7. Enter a *Chronology* documenting compliance and the end date of the automatic suspension.

8. Delete the *To-Do* in CLASS that was entered to alert the Licensing staff assigned to the operation that an automatic revocation will be due six months (180 days) from the date the auto-suspension letter was mailed.

### 7820 Automatic Revocations

LPPH July 2012

Policy

The permit for *a licensed or registered operation* is automatically revoked if the annual permit fee is not paid within six months after the permit is automatically suspended.

The permit for a *listed family home* is automatically revoked if the listed family home does not:

• submit the information required for a subsequent background check within six months after the listing is automatically suspended; or

• pay the annual permit fee within six months after the listing is automatically suspended.

Automatic revocations are not subject to an administrative review or a due process hearing by the State Office of Administrative Hearings (SOAH).

If a permit has been automatically revoked, the operation may re-apply at any time.

Texas Human Resources Code §§[42.052(j)-(j-1)](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.052); [42.054](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.054)

Procedure

By the 10th day of the month after the date a permit is automatically revoked, Licensing staff complete the following tasks:

1. Enter the following information in the *Provider Voluntary Suspension Plan* page in CLASS:

• The end date of the automatic suspension in the *End Date* field

• *Auto-Revocation* in the *Result of Suspension* field

2. Draft the appropriate auto-revocation letter (see [7821](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.jsp#LPPH_7821) Auto-Revocation Letters).

3. Save the auto-revocation letter to the *Provider Voluntary Suspension Plan* page in CLASS by:

• copying the text from the completed auto-revocation letter into Form 2834A FPS Letterhead, available in the CLASS system; and

• saving the letter with the appropriate name (see [7821](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.jsp#LPPH_7821) Auto-Revocation Letters).

4. Print a copy of the final version of the auto-revocation letter from CLASS.

5. Mail the printed auto-revocation letter to the operation through regular mail.

6. Enter a *Chronology* documenting:

• why the permit was automatically revoked;

• when the permit was automatically revoked; and

• the date the auto-revocation letter was mailed.

7. Delete the *To-Do* in CLASS that was entered to alert the Licensing staff assigned to the operation that an automatic revocation will be due six months (180 days) from the date the auto-suspension letter was mailed.

8. Create a *To-Do* in CLASS to alert the Licensing staff assigned to the operation to complete an inspection to verify that the operation is no longer operating.

9. Follow procedures in [7822](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.jsp#LPPH_7822) Closing an Operation After an Automatic Revocation to:

• verify that the operation is not caring for children; and

• document the closure of the operation.

Licensing staff do not offer an administrative review or a due process hearing by the State Office of Administrative Hearings (SOAH) if a permit or listing is automatically revoked.

See [7810](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.jsp#LPPH_7810) Automatic Suspensions.