**Licensing Policy and Procedures**

**Handbook Revision \_\_**

This revision of the Licensing Policy and Procedures Handbook was published on \_\_\_\_. Summaries of new or revised items are provided below.

For Licensing revisions only: Immediately following signoff, Licensing staff will prepare a highlighted document showing significant changes that we will post with the revision memo.

Administrative Penalties (PATS 7567)

The items below are revised to better reflect Licensing rules

The supervisor is no longer required to consult with the director or manager before recommending an administrative penalty for legal review. The administrative penalty notification letter has been revised to state that the provider now has 30 days, rather than 20, to accept the penalty or request a due process hearing. Procedure is streamlined to allow staff to issue the order imposing an administrative penalty without a second review from Legal.

Display of Revisions with Changes Highlighted ()

See:

7530 Recommending the Administrative Penalty

7542 Content of the Administrative Penalty Notification

7543 Imposing the Administrative Penalty

\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*

### 7530 Recommending the Administrative Penalty

LPPH ~~December 2009~~ DRAFT 7567-CCL

Procedure

Before contacting the operation to initiate an administrative penalty, the inspector must first submit the recommendation to the supervisor. The supervisor reviews the recommendation and, if he or she approves, sends the recommendation to legal for review and approval.

The inspector:

• submits the recommendation on [Form 2996](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2996.doc) Recommendation for Administrative Penalty;

• includes the appropriate documentation showing the reason for the recommendation of a fine;

• includes the specific documentation that supports the recommendation, including:

• non-monetary actions previously taken, AND

• repeated violations of the health and safety minimum standard rules, OR

• the failure to comply with any evaluation or probation plan after time limits for correction have expired;

• indicates in the recommendation whether suspension, revocation, or an adverse amendment is recommended in conjunction with the administrative penalty; and

• sends the recommendation and supporting documentation to the supervisor for approval.

If the supervisor and legal division agree with the recommendation, the supervisor sends notice to the operation that DFPS is recommending the imposition of a penalty.

DFPS Rules, 40 TAC [§745.8609](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=8609)

#### 7542 Content of the Administrative Penalty Notification

LPPH ~~December 2009~~ DRAFT 7567-CCL

Procedure

The letter must include a brief summary of the violation and state the amount of the recommended penalty.

The letter must state that within 30 days after the date the person receives the notice:

• the person may, in writing, accept the determination and recommended penalty; or

• the person may request a due process hearing, in writing, on:

• the occurrence of the violation,

• the amount of the penalty, or

• both the occurrence of the violation and the amount of the penalty.

#### 7543 Imposing the Administrative Penalty

LPPH ~~December 2009~~ DRAFT 7567-CCL

Procedure

If the person accepts the recommended penalty or fails to respond to the notice in a timely manner, the inspector issues an order to impose the penalty.

The inspector issues the order to impose the penalty within 15 days of the operation’s acceptance or after the time frame expires to request a hearing. See [7530](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7000.asp#LPPH_7530) Recommending the Administrative Penalty.

The inspector sends [Form 2995](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2995.doc) Administrative Penalty Order by certified mail and encloses Form [2993](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2993.doc) Administrative Penalty Fee Form with the order.