

Licensure Review Panel Procedures

I. Authority

The authority of the Licensure Review Panel is:

- A. To review periodically all exclusions and waivers granted by the Tennessee Department of Intellectual and Developmental Disabilities (“DIDD” or “Department”). TCA § 33-2-403(d)
- B. Upon request of an applicant or licensee which meets the requirements of Tennessee law, to review license denials, suspensions, revocations, and the imposition of civil penalties by DIDD and to make a recommendation to the DIDD Commissioner as to whether the licensure action of DIDD shall remain effective. TCA §§ 33-2-406(f) and 33-2-407(c){3}

II. Appointments

Appointments to the Licensure Review Panel (hereinafter referred to as “the Panel”) will be made in accordance with the following:

- A. The Department shall appoint a review panel. Candidates will be selected and appointed to fulfill the following roles, pursuant to TCA § 33-2-403(d):

Role
DIDD Commissioner or the Commissioner’s Designee
Representative from a Licensed Intellectual Disability Community Services
Representative from a Licensed Developmental Disability Community Services
Representative from a Licensed Residential Facility for Persons with Intellectual and Developmental Disabilities
Representative of a Personal Support Services Agency
Person Supported
Person Supported
Person Supported
Person Supported
Person Supported

- B. The term of appointment shall generally be for two (2) years. At the Commissioner’s discretion, a member’s term may be extended for either (1) year or (2) additional years.
- C. The Panel shall elect a Chair and Vice Chair. TCA § 33-2-403(d).
- D. A DIDD employee shall be appointed by the Commissioner of DIDD as Panel Liaison.



III. Meetings

- A. The Panel shall meet as needed to fulfill its obligations as outlined in the Tennessee Code Annotated.
- B. The Office of Quality Management will provide administrative assistance, as needed, to the Chair and members of the Panel, including posting of the date, time and location of scheduled meetings of the Panel via the Department's web page.
- C. A quorum of the Panel shall consist of the attendance of at least 6 members at the meeting. At the Chair's discretion, the Panel members may attend the meeting by telephone or video conference.
- D. A majority of the Panel members participating in the meeting bind the Panel to its findings and recommendations made to the Commissioner. Members not participating in the meeting have no vote on the matters reviewed at the meeting.
- E. The Office of Quality Management will assist the Panel in taking minutes and/or recordings of its meetings.

IV. Review Requests

- A. The Office of Quality Management, at the time it notifies the applicant or licensee of a licensure action, shall notify the applicant or licensee of procedures to be followed to have that licensure action of DIDD reviewed by the Panel.
- B. All requests for review should be made by the applicant or licensee in writing to the DIDD Assistant Commissioner of Quality Management within fifteen (15) days of notification of the licensure action. TCA §§ 33-2-406(f) and 33-2-407(c) (3)
- C. In addition to the written request for review, the applicant or licensee seeking a review before the Panel may submit written statements to the Panel Liaison at any point prior to fifteen (15) days before the meeting date for review by the Panel. The Office of Quality Management may prepare a response to the applicant or licensee's submission.
- D. The Panel Liaison shall provide a preliminary agenda for the meeting, including a list of the names of applicants and/or licensees requesting a review, to the Chair no later than thirty (30) calendar days prior to the next meeting. A finalized agenda will be sent to the Chair by the Panel Liaison no later than seven (7) calendar days before the meeting. The Chair will then distribute to each member of the Panel. The finalized agenda should include a list of all waivers and exclusions being sought since the last meeting of the Panel and any other review to be considered by the Panel. In the absence of a Chair, the Panel Liaison will provide the preliminary agenda and finalized agenda to each member of the Panel.



- E. The Panel Liaison shall notify the applicant/licensee of the date of the Panel meeting and inform the applicant/licensee of the right to appear before the Panel.
- F. All relevant documentation regarding a review by the Panel shall be supplied by the Panel Liaison to the Panel no later than five (5) business days prior to the date of the Panel meeting at which the review will occur.
- G. Written requests for review received by the Office of Quality Management within fifteen (15) calendar days preceding a Panel meeting shall be deferred to the following Panel meeting. Doing so will allow each member of the Panel sufficient time to read and become familiar with all documentation related to matters scheduled to be discussed at each meeting, thus facilitating the disposition of those matters at that time.
- H. By agreement of the parties and in the Panel's discretion, the time for the submission of documentation may be lengthened or shortened.

V. Review Procedures

- A. The Rules of Evidence do not apply as the matter before the Panel is a review only and not a hearing. The Panel, however, may reserve the right to refuse to consider documents or other material that it considers cumulative, are illegible or difficult to read, or may be unable to be deciphered.
- B. The parties may attend the Panel review and are afforded the right to present to the Panel. The Panel may limit the time of the presentations, as it deems necessary.

VI. Review Duties

- A. The duties of the Panel when reviewing licensure actions are to discuss the documentation provided beforehand by the parties, consider any party's presentation and/or response to Panel questions, and to make a written recommendation to the Commissioner as to whether the licensure action of DIDD should remain effective.
- B. In determining whether a civil penalty should be upheld, the Panel should determine whether the licensee has violated a statute or Department rule. Each day of a violation constitutes a separate violation. TCA § 33-2-407. A civil penalty of not less than two hundred fifty dollars (\$250) and not more than five hundred dollars (\$500) may be imposed on a licensee for a violation of a statute or rule. A civil penalty of not less than five hundred dollars (\$500) and not more than five thousand dollars (\$5000) may be imposed on a licensee for a second or subsequent violation of the same kind committed within twelve (12) months of the first penalty being imposed. TCA § 33-2-407 and 33-2-409
- C. For review of waivers, in determining whether the granting of a waiver by DIDD was appropriate, the Panel should determine whether the rule waived was irrelevant or

posed a hardship to the applicant/licensee and whether the strict enforcement of the requirement imposed by the rule waived was not in the best interest of the applicant/licensee 's clients. Tennessee Administrative Rule 0465-02-02-.19

- D. For review of exclusions, in determining whether an exclusion to licensing should be granted, the Panel should first determine whether the unlicensed facility is either appropriately licensed by the Department of Health, whose primary purpose is not the provision of intellectual and/or developmental disability services, is a satellite hospital appropriately licensed by the Department of Health, or is a facility operated by Department of Education, the Department of Correction, the Department of Human Services, or the Department of Children's Services and whose primary purpose is not the provision of intellectual and/or developmental disabilities services or personal support services. Tennessee Administrative Rule 0465-02-02-.18

VII. Panel Findings and Recommendations

- A. The Panel should report its findings and recommendations in writing to the Commissioner, with a copy to the Panel Liaison. It is within the discretion of the Commissioner to uphold or to overturn the recommendations of the Panel.
- B. The applicant or licensee shall be notified in writing of the Commissioner's decision regarding the findings and recommendations of the Panel.
- C. The applicant or licensee may file, within fifteen (15) days of notification of the Commissioner's decision, a written request for a hearing before the Department to be conducted in accordance with the Administrative Procedures Act. TCA §§ 33-2-406(f)