

1 10A NCAC 13F .1702 is proposed for adoption as follows:

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3 **10A NCAC 13F .1702 ADVERSE ACTION ON CERTIFICATION**

4 (a) The Department shall deny, suspend, or revoke the certification of an administrator when the administrator or
5 applicant administrator:

6 (1) has not completed 30 hours biennially of continuing education credits as required by Rule .1703 of
7 this Section;

8 (2) has been convicted by any jurisdiction of a felony unless rights of citizenship have been restored
9 and all of the following have been considered and determined by the Department to allow
10 certification:

11 (A) date of conviction;

12 (B) circumstances surrounding the committing of the crime, if known;

13 (C) nexus between the criminal conduct of the person and job duties; and

14 (D) prison, jail, probation, parole, rehabilitation and employment records of the person since
15 the date the crime was committed;

16 (3) has been convicted by any jurisdiction of a misdemeanor unless all terms of the judgment imposed
17 for said misdemeanor have been met and the following have been considered and determined by the
18 Department to allow certification:

19 (A) date of conviction;

20 (B) circumstances surrounding the committing of the crime, if known;

21 (C) nexus between the criminal conduct of the person and job duties; and

22 (D) prison, jail, probation, parole, rehabilitation and employment records of the person since
23 the date the crime was committed;

24 (4) was the administrator of an adult care home or family care home whose license was summarily
25 suspended pursuant to G.S. 131D-2.7(c), or a notice of revocation of the facility's license was issued
26 pursuant to G.S. 131D-2.7(b). In these circumstances, the Department shall take into consideration
27 the length of time the administrator was serving in that capacity at the facility and the nexus between
28 the reason for the summary suspension or revocation of the facility's license and the job duties of
29 the administrator;

30 (5) is unable to perform as administrator with reasonable skill and safety to residents by reason of any
31 observable or documented condition that impairs the individual in such a way that it endangers the
32 health, safety, or welfare of residents.

33 (6) tested positive for a controlled substance or refused to consent to drug testing according to G.S.
34 131D-45;

35 (7) prior or subsequent to applying for administrator certification, has a finding on the North Carolina
36 Health Care Personnel Registry pursuant to G.S. 131E-256; or

1 (8) fails to report to the Department within ten days any arrest or conviction for a felony or
2 misdemeanor.

3 (b) The Department shall suspend the certification of an administrator due to any arrest with a relationship between
4 the alleged criminal conduct and job duties that has been determined by the Department to indicate a need to seek
5 action in order to further protect facility residents pending adjudication by a court. Serving as an administrator while
6 the administrator's certification is suspended shall be grounds for revocation of certification. Examples of criminal
7 conduct the Department may consider in relation to job duties are fraud, physical assault, theft, abuse, neglect,
8 exploitation, and drug diversion.

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10 *History Note: Authority G.S. 90-288.18; G.S. 131D-2.16; G.S. 131D-2.18; G.S. 131D-4.3; 143B-165;*
11 *Eff. April 1, 2017.*