

DHSR Adult Care Licensure Section
Fiscal Impact Analysis
Permanent Rule Amendment without Substantial Economic Impact

Agency: North Carolina Medical Care Commission

Contact Persons: Shanah Black, DHSR Rules Review Manager, (919) 855-3481
Megan Lamphere, Adult Care Licensure Section Chief, (919) 855-3784
Shalisa Jones, Regulatory Analyst, (704) 589-6214

Impact Summary: Federal Government: No
State Government: No
Local Government: No
Private Entities: No
Substantial Impact: No

N.C. Administrative Code Citations: 10A NCAC 13F .1604 Rating Calculation
10A NCAC 13G .1604 Rating Calculation
See Appendix for the proposed rule text.

Authority: G.S. 131D-4.5; 131D-10

Necessity: This rulemaking is necessary to correct technical errors identified after the recent readoption of these two rules.

1. Background

These two rules outline the standards for how the star rating is calculated for North Carolina’s adult care home (13F .1604) and family care home (13G .1604) facilities pursuant to the N.C. Star Rated Certificate Program. These rules were approved for readoption by the Rules Review Commission on January 30, 2025, to become effective August 1, 2025. After approval of the rules, an error was identified in each of these rules whereby the incorrect general statute was referenced for specific situations in which a facility with suspended admissions would not receive any demerit points or merit points. The proposed changes will correct the error, thereby clarifying the circumstances for which demerit and merit points will or will not be imposed. The changes will revert this portion of the rule back to the original language. Specifically, the rule changes will make it clear that:

- Demerit points will not be deducted when admissions are suspended pursuant to G.S. 131D-4.2 (failure to submit a report of actual costs “cost report” in a timely manner).
- A demerit of 10 points will be imposed when admissions are suspended pursuant to G.S. 131D-2.7 (NC DHHS has determined that conditions in the facility are detrimental to the health or safety of the residents). *Note this is separate from the demerit of 31 points that would be deducted for license revocation or “summary suspension” pursuant to G.S. 131D-2.7.*

These errors were unintended and as such, they were not accounted for in the Fiscal Impact Analysis approved for this rule in 2024.

2. Impact Analysis

State and Local Government

The proposed changes are limited to those changes necessary to correct technical errors. None of these changes will require the State implementing agency (DHHS Adult Care Licensure Section) or local governments (county Departments of Social Services) to revise their existing procedures or to procure additional staff. As such, there will be no economic cost or benefit to state agencies or local governments.

Regulated Community

The regulated community includes licensed adult care home and family care home facilities. The proposed changes are limited to those changes necessary to correct technical errors. As measured from the baseline conditions, none of these changes will require the regulated community to deviate from current practices. As such, there will be no economic costs for facilities due to these proposed changes. It is possible that the regulated community could benefit from the improved regulatory clarity. The likelihood of realizing this benefit is small, however, as the recently readopted rules containing the errors have not yet gone into effect. The proposed corrected version of these rules is anticipated to be adopted by August 1, 2025.

3. Summary

There are no anticipated economic costs or benefits associated with this proposed rulemaking other than minimal benefits from improved rule clarity. Consequently, there were no specific costs or benefit estimations to report in this analysis.

Appendix

10A NCAC 13F .1604 is proposed for amendment as follows:

10A NCAC 13F .1604 RATING CALCULATION

(a) Ratings shall be based on:

- (1) Inspections completed pursuant to G.S. 131D-2.11(a) and (a1);
- (2) Statutory and Rule requirements listed in Rule .1603 of this Section;
- (3) Type A1, Type A2, or uncorrected Type B penalty violations identified pursuant to G.S. 131D-34; and
- (4) Other items listed in Subparagraphs (c)(1) and (c)(2) of this Rule.

(b) The initial rating a facility receives shall remain in effect until the next inspection. If an activity occurs which results in the assignment of additional merit or demerit points, a new certificate shall be issued pursuant to Rule .1602(a) of this Section.

(c) The rating shall be based on a 100 point scale. Beginning with the initial rating and repeating with each annual or biennial inspection, the facility shall be assigned 100 points and shall receive merits or demerits, which shall be added or subtracted from the 100 points, respectively. The merits and demerits shall be assigned as follows:

(1) Merit Points

- (A) If the facility corrects a standard deficiency of noncompliance with the statutes or rules listed in Rule .1603 of this Subchapter, the facility shall receive 1.25 merit points for each corrected deficiency;
- (B) If the facility corrects a citation for which a Type B violation was identified, the facility shall receive 1.75 merit points;
- (C) If the facility corrects a previously uncorrected Type B violation, the facility shall receive 1.75 merit points;
- (D) If the facility corrects the citation for which a Type A1 or Type A2 violation was identified, the facility shall receive 5 merit points;
- (E) If the facility corrects a previously uncorrected Type A1 or Type A2 violation, the facility shall receive 5 merit points;
- (F) If the facility's admissions have been ~~suspended~~, suspended pursuant to 131D-2.7, the facility shall receive 5 merit points if the suspension is removed;
- (G) If the facility's license is restored to a full license after being downgraded to a provisional license, the facility shall receive 5 merit points;
- (H) If the facility participates in any quality improvement program pursuant to G.S. 131D-10, the facility shall receive 2.5 merit points;
- (I) If the facility establishes an ongoing resident council which meets at least quarterly, the facility shall receive .5 merit point;
- (J) If the facility establishes an ongoing family council which meets at least quarterly, the facility shall receive .5 merit point;
- (K) If the facility's designated on-site staff member who directs the facility's infection control activities in accordance with G.S. 131D-4.4A has completed the "Infection Control in Long Term Care Facilities"

course offered by the University of North Carolina Statewide Program for Infection Control and Epidemiology (SPICE) every two years, the facility shall receive .5 merit point;

- (L) If the facility permanently installs a generator or has a contract with a generator provider to provide emergency power for essential functions of the facility, the facility shall receive 2 merit points. For purposes of this Rule, essential functions mean those functions necessary to maintain the health or safety of residents during power outages greater than 6 hours and include the fire alarm system, heating, lighting, refrigeration for medication storage, minimal cooking, elevators, medical equipment, computers, door alarms, special locking systems, sewage and well operation where applicable, sprinkler system, and telephones. If the facility has an existing permanently installed generator or an existing contract with a generator provider, the facility shall receive 1 merit point for maintaining the generator in working order or continuing the contract with a generator provider;
- (M) If the facility installs automatic sprinklers in compliance with the North Carolina Building Code, and maintains the system in working order, the facility shall receive 3 merit points. If the facility has an existing automatic sprinkler, the facility shall receive 2 merit points for subsequent ratings for maintaining the automatic sprinklers in working order; and
- (N) If the facility engages the services of a third-party company to conduct resident and family satisfaction surveys at least annually for the purpose of improving resident care, the facility shall receive 1 merit point. Resident and family satisfaction surveys shall not be conducted by any employees of the facility, or a third-party company affiliated with the facility. The satisfaction survey results shall be made available upon request and in a location accessible to residents and visitors in the facility.

(2) Demerit Points

- (A) For each standard deficiency of noncompliance with the statutes or rules listed in Rule .1603 of this Subchapter, the facility shall receive a demerit of 2 points. The facility shall receive demerit points only once for citations in which the findings are identical to those findings used for another citation;
- (B) For each citation of a Type A1 or Type A2 violation, the facility shall receive a demerit of 10 points, and if the Type A1 or Type A2 violation remains uncorrected as result of a follow-up inspection, the facility shall receive an additional demerit of 10 points;
- (C) For each citation of a Type B violation, the facility shall receive a demerit of 3.5 points and if the Type B violation remains uncorrected as the result of a follow-up inspection, the facility shall receive an additional demerit of 3.5 points;
- (D) If the facility's admissions are ~~suspended~~, suspended pursuant to G.S. 131D-2.7, the facility shall receive a demerit of 10 points; however, if the facility's admissions are suspended pursuant to ~~G.S. 131D-2.7~~, G.S. 131D-4.2, the facility shall not receive any demerit points;
- (E) If the facility's license is downgraded to a provisional license pursuant to G.S. 131D-2.7, the facility shall receive a demerit of 10 points;
- (F) If the facility receives a notice of revocation against its license pursuant to G.S. 131D-2.7, the facility shall receive a demerit of 31 points; and
- (G) If the facility's license is summarily suspended pursuant to G.S. 131D-2.7, the facility shall receive a demerit of 31 points.

(d) Facilities shall be given a rating of zero to four stars depending on the score assigned pursuant to Paragraph (a), (b) or (c) of this Rule. Ratings shall be assigned as follows:

- (1) Four stars shall be assigned to any facility whose score is 100 points or greater on two consecutive annual or biennial inspections;
- (2) Three stars shall be assigned for scores of 90 to 99.9 points, or for any facility whose score is 100 points or greater on one annual or biennial inspection;
- (3) Two stars shall be assigned for scores of 80 to 89.9 points;
- (4) One star shall be assigned for scores of 70 to 79.9 points; and
- (5) Zero stars shall be assigned for scores of 69.9 points or lower.

History Note: Authority G.S. 131D-4.5; 131D-10;
Eff. July 3, 2008;
Readopted Eff. ~~August 1, 2025.~~ August 1, 2025;
Amended Eff. August 1, 2025.

10A NCAC 13G .1604 is proposed for amendment as follows:

10A NCAC 13G .1604 RATING CALCULATION

(a) Ratings shall be based on:

- (1) Inspections completed pursuant to G.S. 131D-2.11(a) and (a1);
- (2) Statutory and Rule requirements listed in Rule .1603 of this Section;
- (3) Type A1, Type A2, or uncorrected Type B penalty violations identified pursuant to G.S. 131D-34; and
- (4) Other items listed in Subparagraphs (c)(1) and (c)(2) of this Rule.

(b) The initial rating a facility receives shall remain in effect until the next inspection. If an activity occurs which results in the assignment of additional merit or demerit points, a new certificate shall be issued pursuant to Rule .1602(a) of this Section.

(c) The rating shall be based on a 100 point scale. Beginning with the initial rating and repeating with each annual or biennial inspection, the facility shall be assigned 100 points and shall receive merits or demerits, which shall be added or subtracted from the 100 points, respectively. The merits and demerits shall be assigned as follows:

(1) Merit Points

- (A) If the facility corrects a standard deficiency of noncompliance with the statutes or rules listed in Rule .1603 of this Subchapter, the facility shall receive 1.25 merit points for each corrected deficiency;
- (B) If the facility corrects a citation for which a Type B violation was identified, the facility shall receive 1.75 merit points;
- (C) If the facility corrects a previously uncorrected Type B violation, the facility shall receive 1.75 merit points;
- (D) If the facility corrects the citation for which a Type A1 or Type A2 violation was identified, the facility shall receive 5 merit points;
- (E) If the facility corrects a previously uncorrected Type A1 or A2 violation, the facility shall receive 5 merit points;
- (F) If the facility's admissions have been ~~suspended~~, suspended pursuant to 131D-2.7, the facility shall receive 5 merit points if the suspension is removed;
- (G) If the facility's license is restored to a full license after being downgraded to a provisional license, the facility shall receive 5 merit points;
- (H) If the facility participates in any quality improvement program pursuant to G.S. 131D-10, the facility shall receive 2.5 merit points;
- (I) If the facility establishes an ongoing resident council which meets at least quarterly, the facility shall receive .5 merit point;
- (J) If the facility establishes an ongoing family council which meets at least quarterly, the facility shall receive .5 merit point;
- (K) If the facility's designated on-site staff member who directs the facility's infection control activities in accordance with G.S. 131D-4.4A has completed the "Infection Control in Long Term Care Facilities" course offered by the University of North Carolina Statewide Program for Infection Control and Epidemiology (SPICE) every two years, the facility shall receive .5 merit point;

- (L) If the facility permanently installs a generator or has a contract with a generator provider to provide emergency power for essential functions of the facility, the facility shall receive 2 merit points. For purposes of this Rule, essential functions mean those functions necessary to maintain the health or safety of residents during power outages greater than 6 hours and include the fire alarm system, heating, lighting, refrigeration for medication storage, minimal cooking, elevators, medical equipment, computers, door alarms, special locking systems, sewage and well operation where applicable, sprinkler system, and telephones. If the facility has an existing permanently installed generator or an existing contract with a generator provider, the facility shall receive 1 merit point for maintaining the generator in working order or continuing the contract with a generator provider;
- (M) If the facility installs automatic sprinklers in compliance with the North Carolina Building Code, and maintains the system in working order, the facility shall receive 3 merit points. If the facility has an existing automatic sprinkler, the facility shall receive 2 merit points for subsequent ratings for maintaining the automatic sprinklers in working order; and
- (N) If the facility engages the services of a third-party company to conduct resident and family satisfaction surveys at least annually for the purpose of improving resident care, the facility shall receive 1 merit point. Resident and family satisfaction surveys shall not be conducted by any employees of the facility, or a third-party company affiliated with the facility. The satisfaction survey results shall be made available upon request and in a location accessible to residents and visitors in the facility.

(2) Demerit Points

- (A) For each standard deficiency of noncompliance with the statutes or rules listed in Rule .1603 of this Subchapter, the facility shall receive a demerit of 2 points. The facility shall receive demerit points only once for citations in which the findings are identical to those findings used for another citation;
- (B) For each citation of a Type A1 or Type A2 violation, the facility shall receive a demerit of 10 points, and if the Type A1 or Type A2 violation remains uncorrected as result of a follow-up inspection, the facility shall receive an additional demerit of 10 points;
- (C) For each citation of a Type B violation, the facility shall receive a demerit of 3.5 points and if the Type B violation remains uncorrected as the result of a follow-up inspection, the facility shall receive an additional demerit of 3.5 points;
- (D) If the facility's admissions are ~~suspended~~, suspended pursuant to G.S. 131D-2.7, the facility shall receive a demerit of 10 points; however, if the facility's admissions are suspended pursuant to ~~G.S. 131D-2.7~~, G.S. 131D-4.2, the facility shall not receive any demerit points;
- (E) If the facility's license is downgraded to a provisional license pursuant to G.S. 131D-2.7, the facility shall receive a demerit of 10 points;
- (F) If the facility receives a notice of revocation against its license pursuant to G.S. 131D-2.7, the facility shall receive a demerit of 31 points; and
- (G) If the facility's license is summarily suspended pursuant to G.S. 131D-2.7, the facility shall receive a demerit of 31 points.

(d) Facilities shall be given a rating of zero to four stars depending on the score assigned pursuant to Paragraph (a), (b) or (c) of this Rule. Ratings shall be assigned as follows:

- (1) Four stars shall be assigned to any facility whose score is 100 points or greater on two consecutive annual or biennial inspections;
- (2) Three stars shall be assigned for scores of 90 to 99.9 points, or for any facility whose score is 100 points or greater on one annual or biennial inspection;
- (3) Two stars shall be assigned for scores of 80 to 89.9 points;
- (4) One star shall be assigned for scores of 70 to 79.9 points; and
- (5) Zero stars shall be assigned for scores of 69.9 points or lower.

History Note: Authority G.S. 131D-4.5; 131D-10;
Eff. July 3, 2008;
Readopted Eff. ~~August 1, 2025.~~ August 1, 2025.
Amended Eff. August 1, 2025.