

Study of the NC Star Rated Certificate Program

Session Law 2017-184, Section 6.(a)



Report to the

Joint Legislative Oversight Committee on Health and Human Services

and

Fiscal Research Division

By

North Carolina Department of Health and Human Services

February 1, 2018

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Background of the N.C. Star Rated Certificate Program

The North Carolina Star Rated Certificate Program was established in 2009 to provide consumers with meaningful, easily accessible information about the care and services provided in the state's adult care home and family care home facilities.

Senate Bill 56, S.L. 2007-544 Section 3.(a) established requirements for the North Carolina Medical Care Commission to adopt rules for the issuance of rated certificates to adult care homes. Section 3.(b) of the law contained minimal requirements and other parameters on which the rated certificates would be based. In response, after discussion and input from stakeholders in the provider and advocacy communities, the rules for the rated certificate program for adult care homes and family care homes were adopted by the Medical Care Commission on February 8, 2008. The rules governing the rated certificate program for adult care homes are 10A NCAC 13F .1601-.1605, and for family care homes are 10A NCAC 13G .1601-.1605. The rules for the star rating program are based on fundamental rule areas that are inspected on an annual or biennial basis by DHSR. The following rules and statutes comprise the standards that contribute to rated certificates:

- Resident's Rights, [G.S. 131D-21](#)
- Physical Plant Requirements, [10A NCAC 13F.0300](#), [13G .0300](#)
- Admission and Discharge, [10A NCAC 13F .0700](#), [13G .0700](#)
- Resident Assessment and Care Plan, [10A NCAC 13F .0800](#), [13G .0800](#)
- Resident Care and Services, [10A NCAC 13F .0900](#), [13G .0900](#)
- Medication Administration Policies and Procedures, [10A NCAC 13F .1000](#), [13G .1000](#)
- Special Care Units for Alzheimer and Related Disorders, [10A NCAC 13F .1300](#)
- Special Care Units for Mental Health Disorders, [10A NCAC 13F .1400](#)
- Use of Physical Restraints and Alternatives, [10A NCAC 13F .1500](#), [13G .1300](#)

The North Carolina Star Rated Certificate program was implemented across the state on January 1, 2009, and is administered by the Division of Health Service Regulation, Adult Care Licensure Section.

NOTE: Attachments related to this study and the North Carolina Star Rated Certificate Program are available as reference beginning on page 5 of this report.

Reporting Requirements

Section 6.(a) of Session Law 2017-184 (House Bill 657) requires the Department of Health and Human Services to conduct a study of the North Carolina Star Rated Certificate Program. The study shall (i) evaluate the effectiveness of the program in providing information to consumers of adult care home services, (ii) examine potential evidence-based alternatives, and (iii) make recommendations for any regulatory or legislative changes that could result in improvement of the current system.

By February 1, 2018, the Department shall report to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division on the progress of the study. By October 1, 2018, the Department shall conclude the study and report its findings and recommendations, including any recommendations for regulatory or legislative changes, to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division.

Progress Report

A stakeholder workgroup was identified which includes the following sixteen (16) participants:

Scott Ashley - Star Rating Administrator - Adult Care Licensure Section
Megan Lamphere - Chief-Adult Care Licensure Section
Libby Kinsey - Assistant Chief - Adult Care Licensure Section
Doug Barrick - Policy Coordinator - Adult Care Licensure Section
Steven Lewis – Chief - DHSR Construction Section
Frances Messer - Executive Director - North Carolina Assisted Living Association
Jeff Horton - Executive Director - North Carolina Association, LTC Facilities
Victor Orija - State LTC Ombudsman - Division of Aging & Adult Services
Charlotte Gibbons - SA Program Administrator - Division of Aging & Adult Services
Ken Edminster - Housing Administrator - Division of Mental Health/DD/SA Services
William Lamb - Friends of Residents in Long Term Care
Charmaine Fuller-Cooper - Associate State Director-Advocacy - AARP North Carolina
Tore Borhaug – Owner - Tore’s Homes-Family Care Home Representative
Vivien Green - Executive Director - Alzheimer’s North Carolina, Inc.
Sabrena Lea - Associate Director, LTSS - Division of Medical Assistance
Shannon Spence - Personal Care Services Unit Manager - Division of Medical Assistance

The initial stakeholder meeting was held on December 11, 2017 at the Williams Building on the Dix Campus. The meeting was facilitated by Scott Ashley, Star Rating Administrator. At the meeting, the following topics were discussed: the history of the Star Rating program, purpose of the program, and objectives and deadlines of the study per S.L. 2017-184. Establishment of committee subgroups was also discussed.

As a result of group discussion, stakeholders divided into two subgroups that will conduct in-depth study on specific areas and report their findings to the larger group. The first subgroup will focus on developing and administering a consumer questionnaire which addresses the effectiveness of the current rating system and the needs of the consumers. The second subgroup will focus on gathering information on federal and other state facility rating systems and evaluating their applicability to assisted living facilities in North Carolina in disseminating information to consumers. In addition, this subgroup will focus on researching and analyzing information on other types of rating systems and alternatives that can be used to assist consumers in making informed choices.

A second meeting for the collective workgroup was held on January 4, 2018. The team leader of each subgroup reported progress on their individual goals at this meeting. The first subgroup developed a consumer questionnaire and the questions were discussed among the collective group. Several of the questions are being revised and the final version will be ready for the next meeting in February. The second subgroup shared their research on the availability of other state facility rating systems in regards to assisted living facilities. It was discovered that no other states have a “star rated” system for assisted living facilities. A voluntary rating system that provides a score of 1-100 has been in place for residential care facilities for the elderly (RCFE) in San Diego County, California since August 2016. This system is named “Choose Well” and is funded by San Diego County. It is voluntary for facilities to be listed on their website and is managed by Consumer Advocates for RCFE Reform. Their website is <https://www.choosewellsandiego.org> The state of Idaho has an award system that awards a gold star or silver star depending on the number of deficiencies from their inspections.

Next Steps

The subgroups will meet again prior to the next collective workgroup meeting to be scheduled in February. The first subgroup will finalize the consumer survey and the Department will aim to post the survey on the Adult Care Licensure Section's website by the end of February. Survey data will be collected for approximately 3-4 months after it is posted. The second subgroup will continue to research other rating systems or possible alternatives. Any proposed regulatory or statutory changes will be discussed with the group.

ATTACHMENT A- Session Law 2017-184/House Bill 657

GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

SESSION LAW 2017-184 HOUSE BILL 657

AN ACT MODIFYING THE LAWS PROHIBITING ISSUANCE OF ADULT CARE HOME LICENSES DUE TO PRIOR VIOLATIONS; EXEMPTING FROM CERTIFICATE OF NEED REVIEW NEW INSTITUTIONAL HEALTH SERVICES INVOLVING THE ACQUISITION OF AN UNLICENSED ADULT CARE HOME THAT WAS PREVIOUSLY LICENSED; ESTABLISHING A PROCESS FOR ADULT CARE HOMES TO REQUEST INFORMAL DISPUTE RESOLUTION OF CERTAIN ADVERSE INSPECTION FINDINGS BY COUNTY DEPARTMENTS OF SOCIAL SERVICES PRIOR TO IMPOSITION OF A PENALTY OR ISSUANCE OF A STAR RATING CERTIFICATE BASED ON THE ADVERSE INSPECTION FINDINGS; AMENDING THE RULES PERTAINING TO MINIMUM TRAINING FOR PERSONAL CARE AIDES; ELIMINATING THE TWELVE- TO TWENTY-FOUR-MONTH PENALTY ON ADULT CARE HOME STAR RATINGS; AND DIRECTING THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO STUDY THE EFFECTIVENESS OF THE NORTH CAROLINA STAR-RATED CERTIFICATE PROGRAM FOR ADULT CARE HOMES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 131D-2.4 reads as rewritten:

"§ 131D-2.4. Licensure of adult care homes for aged and disabled individuals; impact of prior violations on licensure; compliance history review; license renewal.

(a) Licensure. – Except for those facilities exempt under G.S. 131D-2.3, the Department of Health and Human Services shall inspect and license all adult care homes. The Department shall issue a license for a facility not currently licensed as an adult care home for a period of six months. If the licensee demonstrates substantial compliance with Articles 1 and 3 of this Chapter and rules adopted thereunder, the Department shall issue a license for the balance of the calendar year. A facility not currently licensed as an adult care home that was licensed as an adult care home within the preceding 12 months is considered an existing health service facility for the purposes of G.S. 131E-184(a)(8).

(b) Compliance History Review. – Prior to issuing a new license or renewing an existing license, the Department shall conduct a compliance history review of the facility and its principals and affiliates. The Department may refuse to license a facility when the compliance history review shows a pattern of noncompliance with State law by the facility or its principals or affiliates, or otherwise demonstrates disregard for the health, safety, and welfare of residents in current or past facilities. The Department shall require compliance history information and make its determination according to rules adopted by the Medical Care Commission.

(c) Prior Violations. – No new license shall be issued for any adult care home to an applicant for licensure ~~who~~ under any of the following circumstances for the period of time indicated:

- (1) Was the owner, principal, or affiliate of a licensable facility under this Chapter, Chapter 122C, or Article 7 of Chapter 110 of the General Statutes and was responsible for the operation of the facility that had its license revoked until one full year-five years after the date of revocation;the revocation became effective.
- (1a) Was the owner, principal, or affiliate of a licensable facility under this Chapter, Chapter 122C, or Article 7 of Chapter 110 of the General Statutes and was responsible for the operation of the facility that had its license summarily suspended until five years after the date the suspension was lifted or terminated.
- (2) Is the owner, principal, or affiliate of an adult care home and is responsible for the operation of the facility that was assessed a penalty for a Type A or Type B violation until the earlier of one year from the date the penalty was assessed or until the home has substantially complied with the correction plan

established pursuant to G.S. 131D-34 and substantial compliance has been certified by the ~~Department~~Department.

- (3) Is the owner, principal, or affiliate of an adult care home and is responsible for the operation of the facility that had its license summarily suspended or downgraded to provisional status or had its admissions suspended as a result of Type A or Type B violations under this Article, Chapter 122C, or Article 7 of Chapter 110 of the General Statutes until six months from the date of reinstatement of the license, restoration from provisional to full licensure, or termination of the provisional license, as applicable; or lifting or termination of the suspension of admissions, as applicable.
- (4) ~~Is the owner, principal, or affiliate of a licensable facility that had its license summarily suspended or downgraded to provisional status as a result of violations under this Article or Chapter 122C of the General Statutes or had its license summarily suspended or denied under Article 7 of Chapter 110 of the General Statutes until six months from the date of the reinstatement of the license, restoration from provisional to full licensure, or termination of the provisional license, as applicable.~~
- (5) Is or was the owner, principal, or affiliate of an adult care home and is responsible for the operation of the facility where outstanding fees, fines, and penalties imposed by the State against the facility have not been paid. Fines and penalties for which an appeal is pending are exempt from consideration under this subdivision.

An applicant for new licensure may appeal a denial of certification of substantial compliance under subdivision (2) of this subsection by filing with the Department a request for review by the Secretary within 10 days of the date of denial of the certification. Within 10 days of receipt of the request for review, the Secretary shall issue to the applicant a written determination that either denies certification of substantial compliance or certifies substantial compliance. The decision of the Secretary is final.

(d) License Renewals. – License renewals shall be valid for one year from the date of renewal unless revoked earlier by the Secretary for failure to comply with any part of this section or any rules adopted hereunder. Licenses shall be renewed annually upon filing and the Department's approval of the renewal application. The Department shall not renew a license if outstanding fees, fines, and penalties imposed by the State against the home have not been paid. Fines and penalties for which an appeal is pending are exempt from consideration. The renewal application shall contain all necessary and reasonable information that the Department may require.

(e) In order for an adult care home to maintain its license, it shall not hinder or interfere with the proper performance of duty of a lawfully appointed community advisory committee, as defined by G.S. 131D-31 and G.S. 131D-32.

(f) The Department shall not issue a new license for a change of ownership of an adult care home if outstanding fees, fines, and penalties imposed by the State against the home have not been paid. Fines and penalties for which an appeal is pending are exempt from consideration. The consent of the current licensee is not a required prerequisite to a change of ownership of an adult care home if the current licensee has (i) been removed from the facility pursuant to Articles 3 and 7 of Chapter 42 of the General Statutes or (ii) abandoned the facility, as determined by the Department's reasonable discretion.

(g) Any applicant for licensure who wishes to contest the denial of a license is entitled to an administrative hearing as provided in Chapter 150B of the General Statutes. The applicant shall file a petition for a contested case within 30 days after the date the Department mails a written notice of the denial to the applicant."

SECTION 2. G.S. 131D-2.11 reads as rewritten:

"§ 131D-2.11. Inspections, monitoring, and review by State agency and county departments of social services.

...

(a2) Informal Dispute ~~Resolution~~Resolution – Division of Health Service Regulation. –

- (1) The Division of Health Service Regulation shall offer each adult care home an opportunity, at the facility's request and upon the facility's receipt of the official statement of deficiencies, to informally resolve disputed findings from inspections conducted by the Division of Health Service Regulation in accordance with this section.
- (2) Failure of the Division of Health Service Regulation to complete informal dispute resolution timely does not delay the effective date of any enforcement action taken by the Division of Health Service Regulation against an adult care home.
- (3) An adult care home is not entitled to seek a delay of any enforcement action against it on the grounds that the Division of Health Service Regulation has not completed informal dispute resolution prior to the effective date of the enforcement action.
- (4) If an adult care home successfully demonstrates during informal dispute resolution that any of the deficiencies cited in the official statement of deficiencies should not have been cited, the Division of Health Service Regulation shall remove the incorrectly cited deficiencies from the official statement of

deficiencies and rescind any enforcement actions imposed on the adult care home solely as a result of the incorrectly cited deficiencies.

- (5) ~~Upon request, the~~ The Division of Health Service Regulation shall provide an adult care home with written notification of these informal dispute resolution procedures, make available on its Internet Web site the informal dispute resolution procedures for adult care homes.

(a3) Informal Dispute Resolution – County Departments of Social Services. –

- (1) The Division of Health Service Regulation and county department of social services shall jointly offer each adult care home an opportunity, at the facility's request and upon the facility's receipt of the official statement of deficiencies, to informally resolve disputed findings from inspections conducted by the county department of social services that resulted in the citation of a Type A1 violation, Type A2 violation, Uncorrected Type A1, violation, Uncorrected Type A2 violation, or Uncorrected Type B violation, in accordance with this section.
- (2) Failure of the Division of Health Service Regulation and county department of social services to complete informal dispute resolution timely does not delay the effective date of any enforcement action taken by the Division of Health Service Regulation against an adult care home.
- (3) An adult care home is not entitled to seek a delay of any enforcement action against it on the grounds that the Division of Health Service Regulation and the county department of social services has not completed informal dispute resolution prior to the effective date of the enforcement action.
- (4) If an adult care home successfully demonstrates during informal dispute resolution that any of the deficiencies cited in the official statement of deficiencies should not have been cited, the county department of social services shall remove the incorrectly cited deficiencies from the official statement of deficiencies and the Division of Health Service Regulation shall rescind any enforcement actions imposed on the adult care home solely as a result of the incorrectly cited deficiencies.
- (5) The Division of Health Service Regulation shall make available on its Internet Web site the informal dispute resolution procedures for adult care homes.

...."

SECTION 3. G.S. 131D-4.3(a) reads as rewritten:

"(a) Pursuant to G.S. 143B-165, the North Carolina Medical Care Commission shall adopt rules to ensure at a minimum, but shall not be limited to, the provision of each of the following by adult care homes:

- (1) Repealed by Session Laws 2000-111, s. 1.
- (2) A minimum of ~~75-80~~ hours of training for personal care aides ~~performing heavy care tasks and a minimum of 40 hours of training for all personal care aides.~~ The training for aides ~~providing heavy care tasks shall be comparable to State-approved Certified Nurse Aide I training. For those aides meeting the 40-hour requirement, at least 20 hours shall be classroom training to include at a minimum:~~
- a. ~~Basic nursing skills;~~
 - b. ~~Personal care skills;~~
 - c. ~~Cognitive, behavioral, and social care;~~
 - d. ~~Basic restorative services;~~
 - e. ~~Residents' rights.~~

A minimum of 20 hours of training shall be provided for aides in family care homes that do not have heavy care residents. Persons who either pass a competency examination developed by the Department of Health and Human Services, have been employed as personal care aides for a period of time as established by the Department, or meet minimum requirements of a combination of training, testing, and experience as established by the Department shall be exempt from the training requirements of this subdivision; The facility may exempt from the 80-hour training requirement any personal care aides who are or have been either licensed as a health care professional or listed on the Nurse Aide Registry.

- (3) Monitoring and supervision of ~~residents;~~ residents.
- (4) Oversight and quality of care as stated in ~~G.S. 131D-4.1; and~~ G.S. 131D-4.1.
- (5) Adult care homes shall comply with all of the following staffing requirements:
- a. First shift (morning): 0.4 hours of aide duty for each resident (licensed capacity or resident census), or 8.0 hours of aide duty per each 20 residents (licensed capacity or resident census) plus 3.0 hours for all other residents, whichever is greater;
 - b. Second shift (afternoon): 0.4 hours of aide duty for each resident (licensed capacity or resident census), or 8.0 hours of aide duty per each 20 residents plus 3.0 hours for all other residents (licensed capacity or resident census), whichever is greater;

- c. Third shift (evening): 8.0 hours of aide duty per 30 or fewer residents (licensed capacity or resident census).

~~In addition to these requirements, the~~ The facility shall provide staff to meet the needs of the facility's heavy care residents equal to the amount of time reimbursed by Medicaid. As used in this subdivision, the term "heavy care resident" means an individual residing in an adult care home who is defined "heavy care" by Medicaid and for which the facility is receiving enhanced Medicaid payments for such needs. residents. Each facility shall post in a conspicuous place information about required staffing that enables residents and their families to ascertain each day the number of direct care staff and supervisors that are required by law to be on duty for each shift for that day."

SECTION 4.(a) The Division of Health Service Regulation and county departments of social services shall establish procedures to implement the requirements of G.S. 131D-2.11(a3), as amended by this act, within 60 days after the effective date of this act.

SECTION 4.(b) This section is effective when it becomes law.

SECTION 5. G.S. 131D-10 reads as rewritten:

"§ 131D-10. Adult care home rated certificates.

(a) Rules adopted by the North Carolina Medical Care Commission for issuance of certificates to adult care homes shall contain a rating based, at a minimum, on the following:

- (1) Inspections and substantiated complaint investigations conducted by the Department to determine compliance with licensing statutes and rules. Specific areas to be reviewed include:

- a. Admission and discharge procedures.
- b. Medication management.
- c. Physical plant.
- d. Resident care and services, including food services, resident activities programs, and safety measures.
- e. Residents' rights.
- f. Sanitation grade.
- g. Special Care Units.
- h. Use of physical restraints and alternatives.

(b) ~~The initial ratings awarded~~ The Division of Health Service Regulation shall issue ratings to a facility pursuant to the rules adopted under this section shall be based on inspections, penalties imposed, both of the following:

- (1) Inspections and investigations of substantiated complaints conducted pursuant to G.S. 131D-2.11 and G.S. 131D-26 that revealed noncompliance with statutes and rules, that occurred on or after the act becomes law.

- (2) The facility's participation in any quality improvement programs approved by the Department.

(e) ~~Type A penalties shall affect the rating for 24 months from the date the penalty is assessed. Type B penalties shall affect the rating for 12 months from the date the penalty is assessed.~~

(c1) The Division of Health Service Regulation shall issue a star rating to a facility within 45 days from the date the Division mails the survey or inspection report to the facility, except when a timely request has been made by the facility under G.S. 131D-2.11 for informal dispute resolution. If a facility makes a timely request for informal dispute resolution, the Division of Health Service Regulation shall issue a star rating to the facility within 15 days from the date the Division mails the informal dispute decision to the facility.

(d) Adult care homes shall display the rating certificate in a location visible to the public. Certificates shall include the Web site address for the Department of Health and Human Services, Division of Health Service Regulation, which can be accessed for specific information regarding the basis of the facility rating. For access by the public on request, adult care homes shall also maintain on-site a copy of information provided by the Department of Health and Human Services, Division of Health Service Regulation, regarding the basis of the facility rating. ~~In addition to information on the basis of the rating, the Department of Health and Human Services, Division of Health Service Regulation, shall make information available via its Web site and in the materials available on site at the facility regarding quality improvement efforts undertaken by the facility including:~~

- (1) ~~Participation in any quality improvement programs approved by the Department.~~

(2) ~~The facility's attainment of the North Carolina New Organizational Vision Award special licensure designation authorized in Article 5, Chapter 131E of the General Statutes.~~

(e) The Department shall make available free of charge to the general public on the Division of Health Service Regulation Web site each facility rating and specific information regarding the basis for calculating each facility rating."

SECTION 6.(a) The Department of Health and Human Services shall conduct a study of the North Carolina Star Rated Certificate Program. The study shall (i) evaluate the effectiveness of the program in providing information to consumers of adult care home services, (ii) examine potential evidence-based alternatives, and (iii) make recommendations for any regulatory or legislative changes that could result in improvement of the current system.

SECTION 6.(b) By February 1, 2018, the Department shall report to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division on the progress of the study. By October 1, 2018, the Department shall conclude the study and report its findings and recommendations, including any recommendations for regulatory or legislative changes, to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division.

SECTION 6.(c) This section is effective when it becomes law.

SECTION 7.(a) G.S. 131E-184(a)(8) reads as rewritten:

"(8) To acquire an existing health service facility, including equipment owned by the health service facility at the time of acquisition. A facility not currently licensed as an adult care home that was licensed as an adult care home within the preceding 12 months is considered an existing health service facility for the purposes of this subdivision."

SECTION 7.(b) This section is effective when it becomes law.

SECTION 8. Except as otherwise provided, this act becomes effective October 1, 2017.

In the General Assembly read three times and ratified this the 26th day of June, 2017.

s/ Daniel J. Forest
President of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 12:03 p.m. this 25th day of July, 2017

ATTACHMENT B- General Statute 131D-10 Adult Care Home Rated Certificates

§ 131D-10. Adult care home rated certificates.

(a) Rules adopted by the North Carolina Medical Care Commission for issuance of certificates to adult care homes shall contain a rating based, at a minimum, on the following:

- (1) Inspections and substantiated complaint investigations conducted by the Department to determine compliance with licensing statutes and rules. Specific areas to be reviewed include:
 - a. Admission and discharge procedures.
 - b. Medication management.
 - c. Physical plant.
 - d. Resident care and services, including food services, resident activities programs, and safety measures.
 - e. Residents' rights.
 - f. Sanitation grade.
 - g. Special Care Units.
 - h. Use of physical restraints and alternatives.

(b) The initial ratings awarded to a facility pursuant to the rules adopted under this section shall be based on inspections, penalties imposed, and investigations of substantiated complaints that revealed noncompliance with statutes and rules, that occurred on or after the act becomes law.

(c) Type A penalties shall affect the rating for 24 months from the date the penalty is assessed. Type B penalties shall affect the rating for 12 months from the date the penalty is assessed.

(d) Adult care homes shall display the rating certificate in a location visible to the public. Certificates shall include the Web site address for the Department of Health and Human Services, Division of Health Service Regulation, which can be accessed for specific information regarding the basis of the facility rating. For access by the public on request, adult care homes shall also maintain on-site a copy of information provided by the Department of Health and Human Services, Division of Health Service Regulation, regarding the basis of the facility rating. In addition to information on the basis of the rating, the Department of Health and Human Services, Division of Health Service Regulation, shall make information available via its Web site and in the materials available on-site at the facility regarding quality improvement efforts undertaken by the facility including:

- (1) Participation in any quality improvement programs approved by the Department.
- (2) The facility's attainment of the North Carolina New Organizational Vision Award special licensure designation authorized in Article 5, Chapter 131E of the General Statutes. (2007-544, s. 3(b).)

ATTACHMENT C- Star Rating Rules for Adult Care Homes

SECTION .1600 – RATED CERTIFICATES

10A NCAC 13F .1601 SCOPE

- (a) This Section applies to all licensed adult care homes for seven or more residents that have been in operation for more than one year.
- (b) As used in this Section a "rated certificate" means a certificate issued to an adult care home on or after January 1, 2009 and based on the factors contained in G.S. 131D-10.

History Note: Authority G.S. 131D-4.5; 131D-10;
Eff. July 3, 2008.

10A NCAC 13F .1602 ISSUANCE OF RATED CERTIFICATES

- (a) A rated certificate shall be issued to a facility by the Division of Health Service Regulation within 45 days completion of a new rating calculation pursuant to Rule .1604 of this Subchapter.
- (b) If the ownership of the facility changes, the rated certificate in effect at the time of the change of ownership shall remain in effect until the next annual survey or until a new certificate is issued pursuant to Rule .1604(b) of this Subchapter.
- (c) The certificate and any worksheet the Division used to calculate the rated certificate shall be displayed in a location visible to the public.
- (d) The facility may contest the rated certificate by requesting a contested case hearing pursuant to G.S. 150B. The rated certificate and any subsequent certificates remain in effect during any contested case hearing process.

History Note: Authority G.S. 131D-4.5; 131D-10;
Eff. July 3, 2008.

10A NCAC 13F .1603 STATUTORY AND RULE REQUIREMENTS AFFECTING RATED CERTIFICATES

The following Statutes and Rules comprise the standards that contribute to rated certificates:

- (1) G.S. 131D-21 Resident's Rights;
- (2) 10A NCAC 13F .0300 Physical Plant Requirements;
- (3) 10A NCAC 13F .0700 Admission and Discharge Requirements;
- (4) 10A NCAC 13F .0800 Resident Assessment and Care Plan;
- (5) 10A NCAC 13F .0900 Resident Care and Services;
- (6) 10A NCAC 13F .1000 Medication Management;
- (7) 10A NCAC 13F .1300 Special Care Units for Alzheimer's and Related Disorders;
- (8) 10A NCAC 13F .1400 Special Care Units for Mental Health Disorders; and
- (9) 10A NCAC 13F .1500 Use of Physical Restraints and Alternatives.

History Note: Authority G.S. 131D-4.5; 131D-10;
Eff. July 3, 2008.

10A NCAC 13F .1604 RATING CALCULATION

- (a) Ratings shall be based on:
- (1) Inspections completed pursuant to G.S. 131D-2(b)(1a)a;
 - (2) Statutory and Rule requirements listed in Rule .1603 of this Section;
 - (3) Type A 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 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 citations of noncompliance with the statutes or rules listed in Rule .1603 of this Subchapter, which are not related to the identification of a Type A violation or an uncorrected Type B violation, the facility shall receive 1.25 merit points for each corrected deficiency;
 - (B) If the facility receives citations on its annual inspection with no Type A or Type B violations and the rating from the annual inspection is one or zero stars the facility may request Division of Health Service Regulation to conduct a follow-up inspection not less than 60 days after the date of the annual inspection. A follow-up

inspection shall be completed depending upon the availability of Division of Health Service Regulation staff. As determined by the follow-up review, the facility shall receive 1.25 merit points for each corrected deficiency;

- (C) If the facility corrects the citation for which a Type A violation was identified, the facility shall receive 2.5 merit points and shall receive an additional 2.5 merit points following the next annual inspection if no further Type A violations are identified;
- (D) If the facility corrects a previously uncorrected Type B violation, the facility shall receive 1.25 merit points;
- (E) If the facility's admissions have been suspended, the facility shall receive 5 merit points if the suspension is removed;
- (F) If the facility participates in any quality improvement program pursuant to G.S. 131D-10, the facility shall receive 2.5 merit points;
- (G) If the facility receives NC NOVA special licensure designation, the facility shall receive 2.5 merit points;
- (H) On or after the effective date of this Rule, 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 Section, essential functions mean those functions necessary to maintain the health or safety of residents during power outages greater than 6 hours. 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; and
- (I) On or after the effective date of this Rule, if the facility installs automatic sprinklers in compliance with the North Carolina Building Code, 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 good working order.

(2) **Demerit Points**

- (A) For each citation 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 A violation, the facility shall receive a 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, the facility shall receive a demerit of 10 points; however, if the facility's admissions are suspended pursuant to G.S. 131D-4.2, the facility shall not receive any demerit points; and
- (E) If the facility receives a notice of revocation against its license, the facility shall receive 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 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 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.*

10A NCAC 13F .1605 CONTENTS OF RATED CERTIFICATE

- (a) The certificate shall contain a rating determined pursuant to Rule .1604 of this Subchapter.
- (b) The certificate or accompanying worksheet from which the score is derived shall contain a breakdown of the point merits and demerits by the factors listed in Rules .1603 and .1604(c) of this Subchapter in a manner that the public can determine how the rating was assigned and the factors that contributed to the rating.
- (c) The certificate shall be printed on the same type of paper that is used to print the facility's license.
- (d) The Division of Health Service Regulation shall issue the certificate pursuant to Rule .1602 of this Subchapter.

*History Note: Authority G.S. 131D-4.5; 131D-10;
Eff. July 3, 2008.*

ATTACHMENT D- Star Rating Rules for Family Care Homes

SECTION .1600 – RATED CERTIFICATES

10A NCAC 13G .1601 SCOPE

- (a) This Section applies to all licensed family care homes for two to six residents that have been in operation for more than one year.
- (b) As used in this Section a "rated certificate" means a certificate issued to a family care home on or after January 1, 2009 and based on the factors contained in G.S. 131D-10.

*History Note: Authority G.S. 131D-4.5; 131D-10;
Eff. July 3, 2008.*

10A NCAC 13G .1602 ISSUANCE OF RATED CERTIFICATES

- (a) A rated certificate shall be issued to a facility by the Division of Health Service Regulation within 45 days completion of a new rating calculation pursuant to Rule .1604 of this Subchapter.
- (b) If the ownership of the facility changes, the rated certificate in effect at the time of the change of ownership shall remain in effect until the next annual survey or until a new certificate is issued pursuant to Rule .1604(b) of this Subchapter.
- (c) The certificate and any worksheet the Division used to calculate the rated certificate shall be displayed in a location visible to the public.
- (d) The facility may contest the rated certificate by requesting a contested case hearing pursuant to G.S. 150B. The rated certificate and any subsequent certificates remain in effect during any contested case hearing process.

*History Note: Authority G.S. 131D-4.5; 131D-10;
Eff. July 3, 2008.*

10A NCAC 13G .1603 STATUTORY AND RULE REQUIREMENTS AFFECTING RATED CERTIFICATES

The following Statutes and Rules comprise the standards that contribute to rated certificates:

- (1) G.S. 131D-21 Resident's Rights;
- (2) 10A NCAC 13G .0300 The Building;
- (3) 10A NCAC 13G .0700 Admission and Discharge Requirements;
- (4) 10A NCAC 13G .0800 Resident Assessment and Care Plan;
- (5) 10A NCAC 13G .0900 Resident Care and Services;
- (6) 10A NCAC 13G .1000 Medications; and
- (7) 10A NCAC 13G .1300 Use of Physical Restraints and Alternatives.

*History Note: Authority G.S. 131D-4.5; 131D-10;
Eff. July 3, 2008.*

10A NCAC 13G .1604 RATING CALCULATION

- (a) Ratings shall be based on:
- (1) Inspections completed pursuant to G.S. 131D-2(b)(1a);
 - (2) Statutory and Rule requirements listed in Rule .1603 of this Section;
 - (3) Type A 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 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 citations of noncompliance with the statutes or rules listed in Rule .1603 of this Subchapter, which are not related to the identification of a Type A violation or an uncorrected Type B violation, the facility shall receive 1.25 merit points for each corrected deficiency;
 - (B) If the facility receives citations on its annual inspection with no Type A or Type B violations and the rating from the annual inspection is one or zero stars, the facility may request Division of Health Service Regulation to conduct a follow-up inspection not less than 60 days after the date of the annual inspection. A follow-up inspection shall be completed depending upon the availability of Division of Health Service Regulation

staff. As determined by the follow-up review, the facility shall receive 1.25 merit points for each corrected deficiency;

- (C) If the facility corrects the citation for which a Type A violation was identified, the facility shall receive 2.5 merit points and shall receive an additional 2.5 merit points following the next annual inspection if no further Type A violations are identified;
- (D) If the facility corrects a previously uncorrected Type B violation, the facility shall receive 1.25 merit points;
- (E) If the facility's admissions have been suspended, the facility shall receive 5 merit points if the suspension is removed;
- (F) If the facility participates in any quality improvement program pursuant to G.S. 131D-10, the facility shall receive 2.5 merit points;
- (G) If the facility receives NC NOVA special licensure designation, the facility shall receive 2.5 merit points;
- (H) On or after the effective date of this Rule, 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 Section, essential functions mean those functions necessary to maintain the health or safety of residents during power outages greater than 6 hours. 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; and
- (I) On or after the effective date of this Rule, if the facility installs automatic sprinklers in compliance with the North Carolina Building Code, 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 good working order.

(2) **Demerit Points**

- (A) For each citation 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 A violation, the facility shall receive a 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, the facility shall receive a demerit of 10 points; however, if the facility's admissions are suspended pursuant to G.S. 131D-4.2, the facility shall not receive any demerit points; and
- (E) If the facility receives a notice of revocation against its license, the facility shall receive 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 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 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.

10A NCAC 13G .1605 CONTENTS OF RATED CERTIFICATE

- (a) The certificate shall contain a rating determined pursuant to Rule .1604 of this Subchapter.
- (b) The certificate or accompanying worksheet from which the score is derived shall contain a breakdown of the point merits and demerits by the factors listed in Rules .1603 and .1604(c) of this Subchapter in a manner that the public can determine how the rating was assigned and the factors that contributed to the rating.
- (c) The certificate shall be printed on the same type of paper that is used to print the facility's license.
- (d) The Division of Health Service Regulation shall issue the certificate pursuant to Rule .1602 of this Subchapter.

History Note: Authority G.S. 131D-4.5; 131D-10;
Eff. July 3, 2008.

ATTACHMENT E- How the N.C. Star Rated Certificate Program Works

The Inspection Process

North Carolina's adult care home (seven or more beds) and family care home facilities (two to six beds) are inspected annually by the Division of Health Service Regulation (DHSR), Adult Care Licensure Section. The goal of inspections is to assess the facility's compliance with applicable laws and regulations affecting the quality of care provided. Follow-up inspections to the annual survey are conducted if a facility has demonstrated significant non-compliance during the annual inspection. The Adult Care Licensure Section, along with the County Departments of Social Services, also conducts complaint investigations as needed. All inspections are unannounced.

During annual inspections, the focus of the survey is on various rule areas that are vital to ensuring the health, safety and welfare of the residents. These are known as the "Fundamental Rule Areas," and are addressed later in this section. Although the focus of the survey begins with the fundamental rule areas, any rule area can be cited if non-compliance is identified. If non-compliance with state rules and regulations for adult care homes and family care homes is identified during an inspection, the survey team must determine the level of the facility's non-compliance. There are 4 levels of non-compliance: Type A Violations, Type B Violations, Uncorrected Type B Violations, and Citations.

Type A Violations

A facility is cited for a Type A violation when its failure to follow the regulations, standards or requirements governing its licensure results in death or serious physical harm, or results in substantial risk that death or serious physical harm will occur. Civil monetary penalties are imposed for Type A violations.

Examples of a Type A violation include the following:

- A confused resident who is not properly supervised, wanders away from the facility and as a result, his or her safety is endangered or the resident suffers serious physical harm; or
- A wrong medication, given to a resident by facility staff, has the strong potential of adversely affecting the resident or the resident suffers serious physical harm.

Type B Violations

A facility is cited for a Type B violation when its failure to follow the regulations, standards or requirements governing its licensure presents a direct relationship to the health, safety, or welfare of any resident, but which does not result in substantial risk that death or serious harm will occur. If a facility fails to correct a Type B violation by a specified timeframe, it is called an "Uncorrected (or Unabated) Type B Violation," and a civil monetary penalty is imposed.

Examples of a Type B violation include the following:

- Several residents have orders to receive over the counter pain medications every morning, but on one morning staff forget to give the residents the medication. The residents suffer no ill consequence from the missed doses and subsequent doses are given as ordered.
- The facility failed to provide an approved handicap wheelchair accessible ramp of correct size and construction for its wheelchair-bound residents. Instead the facility used a piece of plywood balanced on top of a landscape timber, and residents were forced to back up their wheelchairs and drop from the timber, bouncing on to the door sill. Entry to the facility required several attempts by the residents. No handrail was present.

Citations (or 'Standard Deficiencies')

A facility receives a citation when it fails to comply with licensure rules. A citation will be issued if the survey team determines there is sufficient scope (there are a number of residents potentially or actually affected by the non-compliance) and severity (the effect on resident outcomes).

Examples of a citation include the following:

- The facility fails to provide a program of activities designed to meet the needs of the residents. Resident activities included smoking and watching television and being picked-up by a local church for services.
- The facility failed to assure dietary supplements were given to a resident as ordered by the resident's licensed prescribing practitioner.

The Star Rated Certificate Program

As of January 1, 2009, each facility began with a base score of 100 points. Based on the facility's compliance or non-compliance with rule areas during inspections, the facility earns merit or demerit points which are added or subtracted from the 100 base points. Within 45 days of the survey report (called a "Statement of Deficiencies") being mailed, a rating certificate (showing a numeric score and number of stars earned) and the worksheet used to calculate the rating score is sent to the facility. A new certificate and worksheet is generated after each annual inspection, after subsequent inspections, and each time the rating score changes for administrative licensure actions. Facilities are required to post the most recent certificate and worksheet at the facility in a location visible to the public. Also, star ratings and rating worksheets are posted on the DHSR Adult Care Licensure website twice per month. The website contains the facility's current rating as well as any past ratings to allow consumers to view the facility's compliance history.

Star Ratings are based on the results of:

1. DHSR annual inspections
2. DHSR follow-up surveys
3. DHSR complaint investigations
4. Administrative Licensure Actions issued by DHSR
5. Recommendations of Type A and uncorrected Type B violations from the County Department of Social Services (DSS) as agreed to by DHSR.

Star Rating Scale

The Star Rated Certificate program is based on a point scale and ranges from zero to four stars. The scale used to determine a facility's star rating is as follows:



(4 stars) = 100 or greater points on two consecutive annual surveys



(3 stars) = 90.0-99.9 points, or for any facility whose score is 100 points or greater on one annual inspection



(2 stars) = 80.0-89.9 points



(1 star) = 70.0-79.9 points

(ZERO STAR) (0 stars) = 69.9 points or lower

** It is important to note that a facility must obtain 100 points or greater on two consecutive annual surveys in order to earn a four star rating.

Demerit Points

Demerit points are points subtracted from the base score for citations and violations cited. Citations and Type B violations cited by DHSR under the fundamental rule areas will count against a facility's rating score. If a citation or Type B violation is not from a fundamental rule area, it will not count against the facility's rating. Type A and Uncorrected Type B violations from any rule area cited by DHSR or DSS will count against the rating score. Demerit point values are as follows:

- Citations: Deduct 2.0 points each
- Type A violations (in any rule area): Deduct 10.0 points each
- Type B violations: Deduct 3.5 points each
- Uncorrected Type B violation (in any rule area): Deduct 3.5 points each

Administrative licensure action issued by DHSR also results in demerit points being deducted from the rating score as follows:

- Suspension of Admissions issued by DHSR: Deduct 10 points
- Notice of Revocation of License issued by DHSR: Deduct 31 points

Merit Points

Merit points are points added to a facility's score for correction of citations and violations upon follow-up inspection. Merit point values are as follows:

- Corrected citation: Add 1.25 points each
- Corrected Type A violation (in any rule area): Add 2.5 points each
- Corrected Type B violation: Add 1.25 points each
- Uncorrected Type B violation corrected (in any rule area): Add 1.25 points each

Administrative licensure actions rescinded by DHSR also results in merit points being added to the rating score as follows:

- Removal of Suspension of Admissions issued by DHSR: Add 5.0 points

Additional Merit Point Opportunities

There are three opportunities for a facility to earn extra merit points at the initial and each annual inspection. The purpose of the extra merit points is to encourage facilities to take additional measures above and beyond what is minimally required by state rules to ensure the health, safety, welfare, and quality of life of their residents. Facilities do not lose points by not putting these measures in place. The four extra merit point opportunities are:

1. Emergency Power Backup

Facilities who have made arrangements for emergency power backup (i.e. have a generator permanently installed on-site or have a current contract with an emergency power backup provider) and maintain the system in working order receive extra merit points at each annual inspection. Verification of the emergency power backup system or contract is conducted by the DHSR Construction Section.

Facilities receive extra merit points for emergency power backup based on whether it is "new" or "existing." Merit points are issued at each annual inspection as follows:

- If the facility's generator was installed (or contract is dated) before July 3, 2008, it is considered "existing" and 1.0 merit points are added to the rating score.
- If the facility's generator was installed (or contract is dated) after July 3, 2008, it is considered "new" and 2.0 merit points are added to the rating score.

2. Automatic Sprinkler System

Facilities who have installed an automatic sprinkler system throughout the facility and maintain the system in working order receive extra merit points at the initial inspection and each annual inspection. Verification of the automatic sprinkler system and maintenance of the system is conducted by the DHSR Construction Section.

Facilities receive extra merit points for an automatic sprinkler system based on whether the system is "new" or "existing." Merit points are issued at each annual inspection as follows:

- If the facility's automatic sprinkler system was installed before July 3, 2008, it is considered "existing" and 2.0 merit points are added to the rating score.
- If the facility's automatic sprinkler system was installed after July 3, 2008, it is considered "new" and 3.0 merit points are added to the rating score.

3. **Participation in a Quality Improvement Program Approved by DHHS**

Facilities who participate in a Quality Improvement (QI) program that has been approved by DHHS are issued 2.5 extra merit points. QI Program approval is conducted on-site by the DHSR survey team during a facility's initial and each following annual inspection. Facilities may develop their own quality improvement program, participate in a program organized by their corporation, or may participate in a program already approved by DHHS such as those that were offered by the Division of Aging and Adult Services.

Additional Star Rating Information

- **Change of Ownership:** The Star Rating earned by a facility remains in effect through a change of ownership until the facility's next annual inspection has occurred.

Facilities may contest the rated certificate by requesting a contested case hearing with the Office of Administrative Hearings, 1711 New Hope Church Road, Raleigh, NC 919-431-3000. The rated certificate and any subsequent certificates remain in effect during any contested case hearing process.