

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

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

- (1) has not completed the continuing education credits required by Rule .1703 of this Section;
- (2) has been convicted by any jurisdiction of a felony unless rights of citizenship have been restored and all of the following have been considered and determined by the Department to allow certification:
  - (A) the date of conviction;
  - (B) the circumstances surrounding the committing of the crime, if known;
  - (C) the nexus between the criminal conduct of the person and the duties of an administrator; and
  - (D) the prison, jail, probation, parole, rehabilitation, and employment records of the person since the date the crime was committed;
- (3) has been convicted by any jurisdiction of a misdemeanor unless all terms of the judgment imposed for said misdemeanor have been met and the following have been considered and determined by the Department to allow certification:
  - (A) the date of conviction;
  - (B) the circumstances surrounding the committing of the crime, if known;
  - (C) the nexus between the criminal conduct of the person and the duties of an administrator; and
  - (D) the prison, jail, probation, parole, rehabilitation, and employment records of the person since the date the crime was committed;
- (4) was the administrator of an adult care home or family care home whose license was summarily suspended pursuant to G.S. 131D-2.7(c) or a notice of revocation of the facility's license was issued pursuant to G.S. 131D-2.7(b). In these circumstances, the Department shall take into consideration the length of time the administrator was serving in that capacity at the facility and the nexus between the reason for the summary suspension or revocation of the facility's license and the job duties of the administrator in deciding whether to deny, suspend, or revoke the certification of an administrator;
- (5) is unable to perform as administrator with reasonable skill and safety to residents by reason of any observable or documented condition, such as dementia or other disease condition known to result in irreversible cognitive deterioration or drug or alcohol dependency, that impairs the individual in such a way that it endangers the health, safety, or welfare of residents;
- (6) tested positive for a controlled substance or refused to consent to drug testing according to G.S. 131D-45;
- (7) prior or subsequent to applying for administrator certification, has a finding on the North Carolina Health Care Personnel Registry pursuant to G.S. 131E-256; or
- (8) fails to report any arrest or conviction for a felony or misdemeanor to the Department within ten days after such arrest or conviction.

(b) The Department shall suspend the certification of an administrator who has been arrested because of alleged criminal conduct, if the relationship between the alleged criminal conduct and the administrator's duties indicates a need to seek action in order to further protect facility residents pending adjudication by a court. Serving as an administrator while the administrator's certification is suspended shall be grounds for revocation of certification. Examples of criminal conduct the Department may consider in relation to the administrator's duties include fraud, physical assault, theft, abuse, neglect, exploitation, and drug diversion.

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