Virginia Department of Social Services

Division of Licensing Programs

Performance Standardization Guidance for Licensure

Effective: August 1, 2011
Revised: March10, 2014

Table of Contents

Overview 3

The Conceptual Framework of the Licensure Tool 5
The Concept 5
Performance Indicators 6

How the Licensure Tool is Designed 7
The Risk Profile for an Inspector by Facility Report 8
Illustration of the Risk Profile for an Inspector by Facility Report 10
The Risk Profile by State Report 10
Illustration of the Risk Profile for State Report 12

Licensure Recommendations Based on the Configurations of Performance Indicators and Benchmark Alignments 12
When to use the program's report card 12
Performance indicators and the alignment with benchmarks and licensure recommendations 13
Licenses 14
Sanctions 14
How an overall licensure recommendation is determined 15
Table of licensure configurations 16
When to reject or use caution in considering the recommendation of the licensure Tool 16
Performance indicator 4 16
Numerous complaints but few or no violations 17
Numerous violations but low risk score 17
High risk rating but one or two violations 18

Considerations when using the State Ruler to Obtain a Licensure Recommendation 18
A performance score falling near or at the border of two different licensure recommendations 18
Negative numbers for benchmarks 19

Communication of Results from Licensure Tool to Licensee 19

Documentation and Retention of Licensure Decisions 19

Appendix: How to Manually Re-Calculate Averages and Determine License Type 21

Performance Standardization Guidance for Licensure

I. Overview

Ensuring the health and safety of adults and children receiving services in day and residential care programs in Virginia is the primary responsibility of both the Division of Licensing Programs (licensing) and the providers who offer those services. Through enforcement of and compliance with regulatory requirements, licensing and providers have their respective weighty responsibilities to ensure that the established standards of care are met. However, what is paramount to setting the bar for achieving an acceptable level of enforcement and compliance is establishing a methodology for measuring success, or the lack thereof. Equally as important to having a methodology for measuring successful performance is to ensure that the methodology is understandable to all stakeholders, i.e., licensing staff, providers, consumers, and individuals from the private and public sectors.

From July 1999 to July 2010, licensing used an internal guidance document known as *Performance-Based Licensing and Monitoring.* This guidance was used to assist staff with deciding whether or not to issue an initial license, to renew one, or to revoke a license to operate a program. Adult and children's programs affected by the guidance were child day centers (CDCs), child day systems (CDSs), family day homes (FDHs), independent foster homes (IFHs), family day systems (FDSs), child placing agencies (CPAs), child caring institutions (CCIs), adult day care centers (ADCCs), and assisted living facilities (ALFs). Providers seeking a certificate of registration rather than a license to operate a program, such as certified church exempt childcare programs, were not subject to the guidance.

The guidance had four objectives. First, it was to establish performance profiles that describe providers on the basis of their individual compliance history with regulatory requirements, and the level of risk for harm (or actual harm) that persons in their care might be exposed to when violations occurred in their programs. Second, the guidance was intended to offer clear communication to stakeholders concerning how licensing evaluated the performance of those it regulated. Third, unexplained and indefensible licensure decisions would be significantly reduced within and between licensing offices. And fourth, by having a system in place to assess performance with regulatory requirements, thereby distinguishing acceptable and unacceptable levels of performance, licensing could direct its limited sources to give more attention to problem-prone programs.

In accordance with the guidance, a provider could expect to be issued one of five types of licenses based on the following performance profiles:

- Conditional license- issued for up to six months to a new program
- Provisional license- issued for up to six months to a provider who fails to maintain substantial compliance with regulations
- 1-yr license- issued to a provider who substantially complies with most regulations

- 2-yr license- issued to a provider who substantially complies with all regulations but may exceed substantial compliance with some regulations
- 3yr- license- issued to a provider who exceeds substantial compliance with most regulations

In addition to the guidance provided to assist with deciding whether to issue a license, guidance was also provided for determining when a sanction should be considered. A provider could expect to face a sanction to revoke or deny a license to operate an adult or childcare program when violations were found to be systemic and/or reflective of serious to extreme risk for harm or actual harm. The guidance described the performance profile of a provider who could face one of the following two sanctions:

- Denial- issued to a provider who was seeking an initial license or attempted to renew a license but failed to meet and maintain substantial compliance; thereby placing adults or children in care at serious risk for harm or actually caused harm
- Revocation- issued to a provider prior to the expiration of a current license when the provider failed to meet and maintain substantial compliance and placed adults or children in care at serious risk for harm or actually caused harm

Following the implementation of the guidance in 1999, it was not long before licensing staff and providers saw a major shortcoming of the guidance. Specifically, it did not have sufficient objective measures to allow licensure decisions to be made using a provider's performance with regulatory requirements in a uniform and consistent manner. The fundamental question raised was what did it mean to say that a provider met, exceeded, or failed to meet substantial compliance? In other words, was there a certain baseline percent of compliance expected for each performance profile and, if so, did all licensing staff use that same percent of compliance in making licensure decisions? While it was clear that licensing needed to revise its guidance for issuing a license type or a sanction, it was not until 2003 that it acquired its first database that could collect and maintain the type of information that is essential for assessing the performance of providers. However, due to a period of time needed to work out the bugs in the new database system, it was not until 2005 when licensing began developing and using statistical reports to help with making licensure decisions.

From 2005 onward, while licensing was making marginal progress with revising its guidance on issuing a license or a sanction, on July 1, 2010, Chapter 603 of the 2010 Acts of the General Assembly was enacted and mandated that:

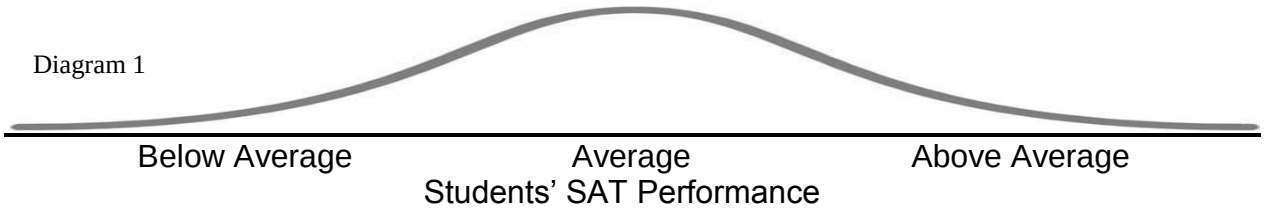
> *By November 1, 2010, the Department of Social Services shall, in consultation with key stakeholder groups, develop specific criteria by which the Department issues one-, two-, and three-year assisted living facility licenses. Such criteria shall be separately stated for each licensure period and shall be unambiguously communicated to all entities seeking initial and renewal licenses.*

To meet this mandate, licensing solicited suggestions, feedback, and other information from various stakeholders. By November 1, 2010, the *Performance Standardization Guidance for Licensure* (a.k.a. the licensure tool) was developed and ready to be piloted. While the mandate applied only to assisted living facilities, licensing decided to apply the tool to all adult and children's programs that required a license to operate since the problem surrounding how licensure decisions were made were not unique to assisted living facilities. Following the six month pilot study, the licensure tool was implemented on August 1, 2011.

II. The Conceptual Framework of the Licensure Tool

A. The concept. The licensure tool was conceived based on a statistical procedure commonly used to make comparisons between groups of individuals known as *norm-referenced testing* (Bond, L., 1996. *Norm- and criterion-referenced testing*. *Practical Assessment, Research & Evaluation.*) An example of this procedure in use is seen with the College Board in how it scores and ranks performances of high school students who take the scholastic aptitude test or SAT. When the scores of the students are plotted, an evenly shaped bell curve is formed (see Diagram 1 below). The bell curve reflects the variations of scores achieved by the students based on their academic abilities and, of course, other plausible factors. More specifically, what is found is that the performance by the majority of the students will fall in the center of the curve, thereby reflecting a range of scores considered to represent the typical or average performance. Typical or average performance, thus, becomes the benchmark for the minimum acceptable performance. As can be seen in the diagram below, to the left and right of center, there is a progressive flattening of the curve. This flattening means that as we move farther away from the center in either direction, fewer students will be found having lower or higher SAT scores relative to the average scores achieved by students found under the highest raised area of the curve. Needless to say, the better the performance, the better the opportunities will be for those students to achieve their academic goals.

Diagram 1

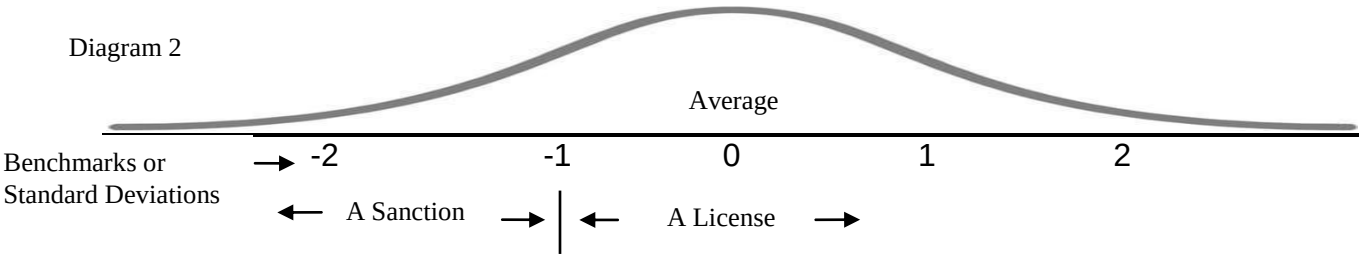


Using the concept of norm-referenced testing, the intent of the licensure tool is to establish objective criteria that can be used to equate a provider's degree of performance in complying with regulatory requirements with a specific licensure recommendation, i.e., recommending a certain license type or a sanction. Similar to plotting SAT scores on a scale to reflect distinct differences in scholastic abilities, differences in the degree of compliance with regulatory requirements can be plotted for adult and childcare programs. What makes the comparisons of performances between individuals meaningful is the use of a statistic called a standard deviation. A standard deviation reflects a uniform or standard amount of dispersion or distribution of some

measured characteristic, attribute, or trait possessed by sub-groups of individuals relative to the amount possessed by the larger population. When the amounts possessed by the individual sub-groups are plotted on a scale, these distinct amounts reflect a standard measure of distance or difference from the main population, as well as from each other. In other words, based on the amount of the characteristic, attribute, or trait possessed, the individual sub-groups will align at very distinct measurable marks on the scale. In this licensure model, these distinct measurable marks have been termed "benchmarks" and will be used to denote distinct levels of performance achieve by providers and their programs. It should be noted that in certain sections of this document, the terms standard deviation and benchmark will be used interchangeably.

Hence, the licensure tool has been conceptualized on the idea and belief that based on the performance of programs in complying with regulatory requirements, each program, relative to the performance of all programs of the same type, can receive a certain license type or a sanction. More specifically, based on the program's performance, it can receive one of the following four licenses: conditional (also called an initial for a new program), provisional, 1-, 2-, or 3-year license. On the other hand, if the program's performance has been determined to be grossly out of compliance and egregious, then a sanction could be recommended. A sanction could range from imposing a civil penalty to a denial or revocation of a license.

Diagram 2



B. <u>Performance indicators.</u> In order for there to be a direct relationship between achieving a specific level of performance and the issuance of a certain licensure decision, it must be clear as to the licensor and the provider what the performance expectations are for a program. In other words, in examining the extent or degree of compliance with regulatory requirements, how is that determination made. Using the division's DOLPHIN database system (i.e., <u>D</u>ivision <u>O</u>f <u>L</u>icensing <u>P</u>rograms <u>H</u>elp and <u>I</u>nformation <u>N</u>etwork), the licensure tool is designed to aggregate information on four different measures of performance with respect to the degree of regulatory compliance by a program. In this licensure model, these measures, are called performance indicators. The following indicators are tracked throughout each program's current licensure period:

1) Performance Indicator 1- means the average number of non-compliances or non-mets per routine monitoring inspection. Routine monitoring inspections are also called mandated inspections because they constitute the minimum number of inspections required for each program

type in accordance with the Code of Virginia.

2) Performance Indicator 2- means the average risk score assessed from violations of key health and safety standards per inspection. Key health and safety standards are considered critical to the protection of the health, safety, and well-being of vulnerable adults and children in out-of-home care settings. Risk scores or numerical weights are derived from the levels of assessed risk for harm found on the risk matrix.

3) Performance Indicator 3- means the average number of non-mets per focused inspection. A focused inspection can be due to a complaint investigation or a follow-up inspection to see whether corrective action(s) was implemented for one or more previously cited non-compliances that had a risk level rating of B-2 or higher.

4) Performance Indicator 4 – means finding that one or more of the following negative events occurred during the licensure period immediately preceding the anticipated new licensure period:

- a sanction,
- coming off a provisional license prior to the issuance of a new license
- coming off enforcement watch prior to the issuance of a new license
- being required by the licensing office to develop an intensive plan of correction (IPOC) within the previous12 months of the license expiration date for one or more egregious non-mets,
- and/or having an average risk rating score of 6 or higher at renewal (refer to the topic on page 14: When to reject or use caution in considering the recommendation of the licensure tool)

III. How the Licensure Tool is Designed

The licensure tool is constructed using data pulled from two different sources maintained in the DOLPHIN database system. One source is from data collected and reported on for an individual program. This data source is used to generate a report called the Risk Profile for an Inspector by Facility Report, a.k.a., the program's performance report card (see the illustration on page 10).

Note: The program's performance report card is the only report needed to obtain the license type or sanction recommendation.

The other data source used is from an aggregation of data on all programs of the same type, e.g., ALFs, CDCs, FDHs, etc. A report generated from this data source is designed to establish a gauge or ruler against which an individual program can be compared to see where its performance stands in comparison to the performances of all programs of the same type. This report is called the Risk Profile by State Report, a.k.a.,

the state ruler (see the illustration on page12).

A. The Risk Profile for an Inspector by Facility Report. This report tracks the performance of a program based on inspections from an initial, renewal, or any subsequent inspection or complaint investigation conducted during the current licensure period. If a program is renewing a license, the report retrieves all monitoring and focused inspections conducted since but not including the renewal inspection that generated the current license that is set to expire. For instance, if a program's current 1-yr license was based on a renewal inspection conducted 12/31/10, and two focused inspections were conducted on 06/01/11 and 08/15/11, and the next renewal inspection was conducted on 12/31/11, then the report will omit the renewal inspection of 12/31/10 but will include the inspections conducted on 06/01/11, 08/15/11, and the renewal inspection conducted on 12/31/11. Once the license has been issued, DOLPHIN erases the previous history and a new licensure history begins.

The Risk Profile for an Inspector by Facility Report provides the licensing administrator and inspector two options to retrieve performance data, i.e., the option to run a report for a specific program from an inspector's caseload listed on the screen, or the option to run the entire caseload for each inspector. The latter report will contain the performance report card for each individual program on that particular inspector's caseload.

The Risk Profile for an Inspector by Facility Report contains the following information as shown in the illustration that follows:

1) General Demographics of Program
   - Program Name
   - Licensing Administrator's Identification Number
   - Licensing Inspector's Identification Number
   - Program Type
   - File number
   - Last License Issuance Date
   - Last Category of License Issued

2) Inspection Summary. This includes any routine monitoring inspections and complaint investigations conducted since but not including the renewal inspection used to issue the current license set to expire. However, it does include the renewal inspection used for issuing a new license for the upcoming licensure period.

3) Total Inspections. This is the combined number of inspections and complaint investigations conducted during the current licensure period.

4) Violation Score. According to the risk matrix, the violation score reflects the assigned numerical weight that corresponds to the assessed risk for harm for each standard violated, i.e., 0 points for non-key health and safety standards and 2 to 18 points for key health and safety standards.

5) Key and Non-Key Standards. Key standards are pre-designated as key health and safety standards which are subject to a risk assessment when violated. Non-key standards are considered less critical to health and safety and are not subject to risk assessment.

6) Statistics. For each inspection or complaint investigation, the following statistics are computed based on the cited violations: Avg. Risk, Standard Deviation (or benchmark), Mode, Inspection Type, and Number of Non-Mets.

7) Summary of Statistics. These statistics are computed for performance indicators 1-3 based on all inspections and complaint investigations conducted during the licensure period:

- Performance Indicator 1 = Avg. Non-Mets per Mandated (or Monitoring) Inspection
- Performance Indicator 2 = Avg. Risk Score Per Key Health and Safety Standard that is violated
- Performance Indicator 3 = Avg. Non-Mets per Focus Inspection

8) License Type Assessed Per Performance Indicator. Based on the averages computed for all inspections and complaint investigations for an individual program on the three performance indicators, when the performance of the individual program is compared to the performance of all programs of the same type, each performance indicator for the individual program will align with one of the following licensure options: a conditional, provisional, 1-yr, 2-yr, or 3-yr license or a sanction, which could be an intermediate or ultimate sanction.

9) Licensure Recommendation. After the licensure tool generates a licensure outcome for each performance indicator, as stated in #8 above, the tool then yields an overall licensure recommendation to the licensing inspector and administrator.

An illustration of The Risk Profile for an Inspector by Facility Report or the program's report car is on the following page.

Virginia Department of Social Services
Division of Licensing Programs
Risk Profile Report for an Inspector by Facility (Program) Type

Page #2
10/19/2012
User admin

Facility Name: Assisted Living Facilities
Supervisor Id: cxf996 Inspector Id: dfj996

Facility Type: ALF	File #: 107500(Lic Id: 8771)	Current License Effective Date: 12/31/2010. Issued for 2 Year License

Inspection Summary — Total Inspections: 3

Inspection Number: 15873	Violation Score	Key and Non-Key Std		
Date : 07/11/2011	2	100-A	Avg. Risk	8.5
	10	250-B	Std. Dev	3.84
	10	460-E	Mode	10
	12	640-A	Insp. Type	C
			# of Non-Mets (Key & Non Key Standards)	4

Inspection Number: 16074	Violation Score	Key and Non-Key Std		
Date : 09/13/2011	4	670-C	Avg. Risk	4.0
	4	670-H	Std. Dev	0.0
			Mode	4
			Insp. Type	C
			# of Non-Mets (Key & Non Key Standards)	2

Inspection Number: 17034				
Date : 05/03/2012			Avg. Risk	NaN
			Std. Dev	NaN
			Mode	0
			Insp. Type	M
			# of Non-Mets (Key & Non Key Standards)	0

	Avg. Non-Mets 0.0	Avg. Risk Score with Key Standards 7.0	Avg. Non-Mets for Focus 3.0	
	Performance Indicator 1	Performance Indicator 2	Performance Indicator 3	
License Type Assessed	3yr	Provisional	1yr	= 2yr

Note: If the issuance date of the current license is later than its effective date, any inspections conducted between the effective date and the issuance date will be indicated with an asterisk. Any such inspection may need to be disregarded when calculating the risk profile for the upcoming license renewal, as it may belong to the previous licensure period.

The Risk Profile by State Report. As stated, this report is the ruler against which the performance of an individual program will be measured or compared. Other than wanting to see statewide statistics for a certain program type, it is not necessary to run this report to obtain a licensure recommendation since the program's report card serves that purpose. However, the exception is when there is a need to manually re-calculate the averages in the program's report card. This situation is explained in the appendix.

The Risk Profile by State Report contains the following information as shown in the illustration that follows:

1) Program Type. The report is generated by program type e.g., ALFs, CDCs, FDHs, CRFs, etc.

2) Summary of Statistics. This table contains data pertaining to the following: (1) Total Facilities that had at least one inspection or complaint investigation reported during the licensure period for the selected program type, (2) Total Non-Mets, (3) Total Non-Mets Focus, (4) Avg. Non-Mets, (5) Avg. Risk Score, (6) Avg. Non-Mets for Focus, (7) Std. Dev. of NM's, (8) Std. Dev. of Risk Scores, and (9) Std. Dev. of NM Focus.

3) License Determination Table. The top row of this table, as it currently exists, lists from left to right:

- Summary Suspension/Denial/Revocation for egregious performance warranting a sanction.
- Provisional License for poor performance
- 1-yr License (or 6-month conditional license for a new program) for average performance
- 2-yr License for above average performance
- 3-yr License for superior performance

Note: Currently, the sanction options on the State report lists only the ultimate sanctions, i.e., summary suspension, denial, and revocation. However, sanction options now include intermediate sanctions, e.g. civil penalty, prohibition of new admissions, mandated training, etc. A revision of this report will be made at the next update. (For a complete listing of all available sanctions, see § 63.2-1709 of the Code of Virginia).

Under the row containing the sanctions and the four license types, standard deviations, i.e., benchmarks, are computed for each performance indicator. These figures reflect the degree to which all programs of the same type are performing with respect to compliance with regulatory requirements. The larger the numbers, i.e., number of violations and degree of risk, the worse the performance; conversely, the smaller the number, the better the performance. Under the 1-yr license, the figure in parenthesis for each performance indicator represents average performance found for that program type. These are the same figures taken from the section of this illustration shown as #2, i.e., the summary of statistics.

An illustration of the state ruler is on the following page.

FY :2012
[Start Dt: Jul-2011
End Dt: Jun-2012]

Viginia Department of Social Services
Division of Licensing Programs
1 → Aggregate Facility Risk Profile State Report for Facility Type: ALF

Page : 1
06/14/2013
User : sal900

2

Total # of Fac.	Total Non Mets	Total Non Mets Focus	Avg. # of NM	Avg. Risk Score	Avg. # of NM Focus	Std. Dev. of NM's	Std. Dev. Of Risk Scores	Std. Dev. Of NM Focus
537	4003	992	7.6	4.33	3.39	3.1	3.32	4.34

3

License Determination Table				
* Summary Suspension/ Denial/Revocation	Provisional License	1 year License Average	2 year License	3 year License
The standard deviation table for Non-Mets (Performance Indicator 1)				
15.36	12.26	9.15 (7.6)	6.05	2.94
The standard deviation table for Key-Violations (Performance Indicator 2)				
12.63	9.31	5.99 (4.33)	2.67	-0.65
The standard deviation table for Non-Mets Focus (Performance Indicator 3)				
14.24	9.9	5.56 (3.39)	1.22	-3.12

* A sanction can range from an intermediate sanction, e.g., civil penalty and mandated training to an ultimate sanction, e.g., denial and revocation.

IV. Licensure Recommendations Based on the Configurations of Performance Indicators and Benchmark Alignments

A. <u>When to use the program's report card.</u> The licensure tool is designed to aggregate data reflecting the performance of a program beginning with the date it was issued a license until the date the license is set to expire. Although the program's report card can be generated and used anytime during the licensure period to help assess a program's performance, such as using the data to help support an intermediate sanction, it is typically generated when the program is being considered for a conditional license or a renewal of a license.

When using the program's report card to help with the decision to renew or deny a license, the program's report card must be generated before the current license expires. Should the current license expire, the report will default back in time and will include the renewal inspection used to issue the current license. The report will then pick up two renewal inspections, i.e., the earlier renewal inspection conducted to issue the current license and the more recent renewal inspection conducted in order to issue a new license. Therefore, it is crucial that the renewal inspection be conducted prior to

the expiration of the license; otherwise it will be necessary to manually re-calculate the averages for the latter renewal inspection in order to remove the figures from the earlier renewal inspection.

As stated, once a license is issued, the program's previous performance history is erased. The program starts the new licensure period with a clean slate. However, having a clean slate at the start of a new licensure period does not mean that if a complaint investigation was initiated in the previous licensure period and was not concluded until the next licensure period that no enforcement action can be recommended in the current licensure period. If warranted, an enforcement action can be carried out in the current licensure period even though it was initiated in the previous licensure period.

B. Performance indicators and the alignment with benchmarks and licensure recommendations. As mentioned earlier, in order for there to be a direct relationship between a specific level of performance and a certain licensure recommendation, the performance expectations must be clear. In this licensure model, each program is assessed on how well it does, relative to the performance of all programs of the same type, by first examining its performance on three of the four performance indicators, i.e., (1) average number of violations from monitoring inspections, (2) average level of risk from violations, and average number of violations from focused inspections/investigations. Once an assessment has been made involving the first three indicators, performance indicator 4 is then taken into consideration, i.e., the occurrence of one or more negative events during the licensure period. This indicator will dictate whether to accept the recommendation that results from performance indicators 1, 2, and 3. (See the topic: When to reject or use caution in considering the recommendation of the licensure tool, page 16).

To help explain the relation between the performance indicators, the benchmarks, and the licensure recommendations, refer to the table on page 10. As shown in the illustration of the state ruler on the following page, the table referenced as the License Determination Table reflects, by row, performance indicators 1, 2, and 3, respectively. The figures shown in each row of the respective performance indicator are based on, first, statewide averages that were determined for each indicator (shown in bold parentheses under the 1 year license) and second, the figures that align with the licensure recommendations located at the top of the table, i.e., Summary Suspension/Denial/Revocation, Provisional, 1 Year License, 2 Year License, and 3 Year License.

The figures shown in each cell and in each row were computed by using a statistical procedure for calculating standard deviations or the licensure benchmarks. Hence, by using this procedure, we are able to determine the statewide average for each indicator and their respective standard deviations or benchmarks. More specifically, in this licensure model, our state ruler establishes that for each performance indicator, the figure computed as the "mean average" denotes the typical or average performance for all programs of the same type.

License Determination Table				
Summary Suspension/ Denial/Revocation	Provisional License	1 Year License Average	2 year License	3 year License
The standard deviation table of Non-Mets (Performance Indicator 1)				
16.21	12.84	9.48 **(7.80)**	6.12	2.75
The standard deviation table of Key-Violation (Performance Indicator 2)				
13.48	9.91	6.33 **(4.54)**	2.76	-0.82
The standard deviation table of Non-Mets Focus (Performance Indicator3)				
14.73	10.23	5.73 **(3.48)**	1.23	-3.27

Based on the program's performance on each of the three indicators, leading up to its next renewal or initial license if new, the indicator will align with one of the following licensure recommendations, unless factors dictate otherwise. Again, it should be noted that the state ruler is not needed to obtain a licensure recommendation. Discussion of the Licensure Determination Table is done only to help explain the relationship between the benchmarks and the licensure recommendations.

Licenses:

1) a conditional license for up to six months when the program is new and its performance falls within the average range of performance among programs of the same type (or in the same cell as average);

2) a 1-yr license when a previously licensed program falls within the average range of performance among programs of the same type (or in the same cell as average);

3) a 2-yr license when a previously licensed program exceeds the average range of performance among programs of the same type by one benchmark (or one cell to the right of average);

4) a 3-yr license when a previously licensed program exceeds the average range of performance among programs of the same type by two benchmarks (or two cells to the right of average);

5) a provisional license for up to six months when a previously licensed program falls below the average range of performance among programs of the same type by one benchmark (or one cell to the left of average).

Sanctions:

1) an intermediate sanction such as a civil penalty, mandated training, prohibition of new admissions, etc., when a previously licensed program falls below the average range of performance among programs of the same type by one benchmark (or one cell to the left of average)

2) a denial of an initial or renewal application when the program falls below the average range of performance among programs of the same

type by two benchmarks (or two cells to the left of average)

3) a revocation of a license for a program not due a renewal for at least two months when the program falls below the average range of performance among programs of the same type by two benchmarks (or two cells to the left of average)

C. <u>How an overall licensure recommendation is determined.</u> The licensure tool has pre-determined rules or configurations of performance indicators that align with an overall licensure recommendation. For instance, the configuration shown in the table below, taken from the program's report card illustrated on page 10, reflects: a 3-yr license for performance indicator 1, a provisional license for performance indicator 2, and a 1-yr license for performance indicator 3. Based on this configuration, the overall licensure decision that the tool recommends is to issue a 2-yr license.

	Avg. Non-Mets 0.0 Performance Indicator 1	Avg. Risk Score with Key Standards **7.0** Performance Indicator 2	Avg. Non-Mets for Focus 3.0 Performance Indicator 3	
Licensed Type Assessed	3-yr	Provisional	1-yr	**= 2-yr**

There are 120 different configurations of performance indicators that align with an overall licensure recommendation. Refer to the Table of Licensure Configurations on the following page to see how this general rule impacts the overall licensure recommendation. Since each of the three performance indicators can align with a different licensure recommendation, a general rule had to be programmed into the tool in order for it to determine which overall licensure option to recommend. The general rule is that the tool will select the more favorable alignment between performance indicators 1 and 2 and their respective licensure option provided that performance indicators 1, 2, and/or 3 do not fall below a 1-yr license. In the example above, because performance indicator 2 aligns with a provisional license, the more favorable licensure recommendation, i.e., the 3-yr license cannot be selected. Rather, the provisional license will pull down on the 3-yr license, resulting in an overall 2-yr license.

Found also in this example is another factor that could impact the overall licensure recommendation. This factor is the applicability of performance indicator 4 which will be discussed in the next topic.

Table of Licensure Configurations
3-yr License: 131, 132, 133, 231, 232, 233, 311, 312, 313, 321, 322, 323, 331, 332, 333
2-yr License: P21, P22, P23, 2PI, 2P2, 2P3, 121, 122,123, 211, 212, 213, 221, 222, 223, 22P, 33P, 13P, 31P, 23P, 32P, P31, P32, P33, 3P1, 3P2, 3P3
1-yr License (or conditional 6-month license): S11, S12, S13, S23, S33, 1S1, 1S2,1S3, 2S1, 2S2, 2S3, 3S1, 3S2, 3S3, 12P, 21P, 21S, P11, P12, P13, P1P, P2P, P3P, 1P1, 1P2, 1P3, 11P, 1PP, 2PP, 3PP,12P, 21P, 111, 112, 113, 11S, 22S, 33S, 23S, 32S, 31S
Provisional License: PPS, PPP, PP1, PP2, PP3, 1SP, 2SP, 3SP, 1PS, 2PS, 3PS, P1P, P2P, P3P, P1S, P2S, P3S
Provisional License or Sanction: SPP, SP1, SP2, SP3, PS1, PS2, PS3, PSP
Sanction: SSS, SSP, SPS, SS1, SS2, SS3, S1S, S2S, S3S, 2SS, S1P, S1S

Note: As needed, the configurations and alignments can be adjusted.

D. When to reject or use caution in considering the recommendation of the licensure tool. While the information provided by the licensure tool must be taken into consideration before a license type or sanction is recommended or issued, there will be times when the data do not accurately reflect a licensee's performance. Consider the following situations:

Reject the recommendation of the licensure tool

1) When Performance indicator 4 occurs. In spite of what performance indicators 1 and 2 recommend, a 2- or 3-yr license should not be issued should performance indicator 4 occurs, i.e., one or more of the following negative events that occurs during the licensure period immediately

preceding the consideration of a new license.

- a sanction,
- a provisional license,
- enforcement watch,
- being required by the licensing office to develop an intensive plan of correction (IPOC) within the previous12 months of the license expiration date for one or more egregious non-mets, and/or
- having an average risk rating score of 6 or higher at renewal

In the example illustrated on page 13, performance indicator 2, i.e., avg. risk score is 7. This meets the last criterion for performance indicator 4, i.e., having an average risk rating score of 6 or higher at renewal. Therefore, a 1-yr license rather than a 2-yr license, as recommended by the tool, should be considered. However, this negative event should be applied with caution in light of situation #4 below.

Use caution in accepting the recommendation of the licensure tool

2) Numerous complaints but few or no violations. When a program has numerous complaints investigations but has few, if any founded complaints or violations, this will yield a low violation average, i.e., the number of violations divided by the number of investigations conducted. The lower the average, the better the license type that will be recommended by the tool. Consequently, having a low violation average could give the appearance that there is no cause for alarm at the program. On the other hand, another perspective of this is that since there were numerous complaints, regardless of the final disposition, a high number of complaints could or should send up a “red flag.” At times, the disposition of a complaint will be “cannot be determined” because of insufficient information. This should not be construed to mean the complaint is not legitimate. Consequently, use caution when issuing an extended license when there were numerous complaints conducted although few if any violations were found.

3) Numerous violations but low risk score. When a program has numerous violations for performance indicator 1 (avg. non-mets), this could result in a sanction being recommended by the tool. However, performance indicator 2 (avg. risk score) could reflect a low risk score, i.e., less than 6, which could correspond to a 2- or 3-yr license. Also, performance indicator 3 (avg. non-met focus) could reflect a low violation average, which could correspond to a 2- or 3-yr license. However, because of the sanction outcome for performance indicator 1, a 1-yr license will be recommended by the tool. In this situation, rather than accept the tool’s recommendation for a 1-yr license, consideration should be given to recommending at least a 2-yr license depending on how low the figures are for performance indicators 2 and 3.

4) High risk score but one or two violations. A program could have received just one inspection during the licensure period with only one violation found and assessed at a risk rating of B-2. Because there's only one inspection and one violation assessed at a B-2 risk rating, performance indicator 2, i.e., avg. risk score, will recommend a provisional license because a B-2 risk rating is assigned a score of 12, and that meets one of the criteria for performance indicator 4.

These scenarios do not cover every situation that could occur, but they do serve to highlight the need to use professional judgment when using information, or the lack of information, from the licensure tool to reach the most appropriate decision. Arriving at the best decision may require consulting with the licensing administrator, co-workers, and/or staff in the home office. However, if the recommendation of the licensure tool is rejected, there must be justification that is clearly documented to support that decision.

Note: The Code of Virginia allows for only a conditional, provisional, and a 2-yr license to be issued to child daycare centers, therefore, not all rules and configurations apply.

V. Considerations when using the State Ruler to Obtain a Licensure Recommendation

A. A performance score falling near or at the border of two different licensure recommendations. The only time that the state ruler will need to be used in order to obtain a licensure recommendation is when a manual re-calculation of averages needs to be done. If this becomes the case, then the following instruction will need to be taken into consideration.

A program's performance score or average can fall near or at the border of two different licensure recommendations. For instance, in the table on the following page, if a program obtains a score of 6.20 on performance indicator 1, that program came within .08 points from falling within the range for a 2-yr license. So, to consider moving a program's performance out of the range linked to a lower license type, e.g. a 1-yr, to the range for the next highest license type, .e.g. a 2-yr, a general rule has been established. **The rule for handling a performance score that falls near or at the border of two license ranges is that the difference between the program's score that falls in the range linked to a lower license type and the score or average found at the border of the next highest license type MUST be a quarter of a point** (.25) **or less.** For instance, in the situation of the program referenced above that had a score of 6.20 on performance indicator 1, the difference between 6.20 and 6.12 (the score at the border for a 2-yr license), is .08. Because .08 is less than .25, the license type that can be recommended for performance indicator 1 is a 2-yr license. However, had the score on this indicator been 6.40, then the difference between that score and 6.12 would be .28. A score of 6.40 would make the program ineligible to get a 2-yr license on performance indicator 1 since .28 is larger than .25.

The licensing inspector and administrator should exercise their best judgment to decide whether to bump the program into the more favorable licensure option.

License Determination Table				
Summary Suspension/ Denial/Revocation	Provisional License	1 Year License Average	2 year License	3 year License
The standard deviation table of Non-Mets (Performance Indicator 1)				
16.21	12.84	9.48 **(7.8)**	6.12	**2.75**
The standard deviation table of Key-Violation (Performance Indicator 2)				
13.48	9.91	6.33 **(4.54)**	2.76	**-0.82**
The standard deviation table of Non-Mets Focus (Performance Indicator3)				
14.73	10.23	5.73 **(3.48)**	1.23	**-3.27**

B. Negative numbers for benchmarks. In some instances (see examples in table above), the performance indicators on the state report will have negative values under the 2- or 3-yr license. These will occasionally occur because of the subtractions between the benchmarks. Since a program cannot have a negative score for avg. violations or avg. risk, the licensure tool was programmed to issue the highest license type whose value on the performance indicator comes close to or equals 0. For instance, for performance indicator 3, the 3-yr license starts at -3.27. All values to the left of -3.27 fall within the 2-yr license range. However, the tool will recommend a 3-yr license if the program's score on this indicator is close or equal to 0.

VI. Communication of Results from the Licensure Tool to Licensee

Chapter 603 became effective on July 1, 2010. It requires the Department of Social Services (Department) to ensure that:

Such criteria [for determining licensure] shall be separately stated for each licensure period and shall be unambiguously communicated to all entities seeking initial and renewal licenses.

To comply with this law, all licensees must receive a copy of the program's report card. The reports can be either emailed, mailed, or hand delivered following the decision on the type of license issued.

VII. Documentation and Retention of Licensure Decision

After considering all relevant information in determining what type of license or enforcement decision to recommend, the decision on licensure must be documented on or attached to the program's report card for the particular licensee under consideration. It is critical that any licensure decision that is not supported by the licensure tool is well explained and documented. Additionally, when the licensure decision deviates from the recommendation of the licensure tool, written justification along with a copy of the reports must be provided to the licensee and to the appropriate Associate Director for Operations, DOLP.

The reports and the decision concerning licensure must be retained for the duration of the license, but should not be retained for more than four years.

****

The contact person for the licensure guidance and tool is:
Steve A. Lambert, Associate Director, Sr.
Division of Licensing Programs
Virginia Department of Social Services
Phone: (804) 726-7141
Fax: (804) 726-7132
Email address: steve.lambert@dss.virginia.gov

Appendix

Procedures to Manually Re-calculate Averages for Performance Indicators

Performance Indicator 1
If there is a need to manually re-calculate this average, take the total count of standards violated and divide that count by the number of inspections conducted during the licensure period. For instance, for 3 inspections conducted during the licensure period, there was a total of 15 violations. Therefore, the average number of violations is determined by taking the 15 violations and dividing the total by the 3 inspections which results in an average of 5 violations per inspection.

Performance Indicator 2
If there is a need to re-calculate this average, take the sum of the risk rating scores and divide the sum by the total number of key health and safety standards cited. For instance, during the licensure period, there were 9 violations of key health and safety standards with the following risk rating scores: 2, 4, 4, 2, 6, 8, 4, 6, and 8 for a sum of 44. Therefore, the average risk score is determined by taking the sum of 44 and dividing the by the 9 cited key health and safety violations which results in an average risk score of 4.8.

Performance Indicator 3
Manually re-calculating the average for performance indicator 3 uses the same method for re-calculating the average for performance indicator 1.

How to Determine License Type After Re-calculating Averages for Performance Indicators

To manually determine the license type, you will need to run the Profile by State Report. Select and run the most recent completed fiscal year. For instance if today's date is July 31, 2013, then we are currently in a new fiscal year since each new fiscal year begins on July 1. We are in FY2013-2014. Since the current fiscal year is not yet completed, you will need to select and run the report for FY2012-2013. In the drop-down box for the Profile by State Report, you will see the fiscal years (see screen shot on the following page). If you want FY2013-2014, select FY2014 from the drop-down box; if you want FY2013, select FY2012-2013; or if you want FY2012, select FY2011-2012. However, in this example where the date is July 31, 2013, you will need to run the report for FY2013, which is FY2012-2013.

Once you obtain the Profile by State Report, you can manually determine the license type by following the instructions beginning under the section: IV. Licensure Recommendations Based on the Configurations of Performance Indicators and Benchmark Alignments.

Risk Profile By State - Windows Internet Explorer provided by VA IT Infrastructure Partnership

https://surya7.dss.virginia.gov/DolpReports/RiskByState.do

File Edit View Favorites Tools Help

Favorites | Google | Suggested Sites | Web Slice Gallery | Free Hotmail | versaRegulation 5 | Virginia Cities, Towns & N...

http://spark.dss.virginia.g... | Risk Profile By State

Page | Safety | Tools

Virginia Department of socialservices

Please note that the Inspection, Violation Reports are generated using the data that was loaded on 03/10/2014 at 1:00 AM

- Home
  - SignOut
  - My Reports
  - DOLPHIN Reports
    - Inspections
    - Complaints
    - Licenses
    - Facilities
    - Applications
    - Violations
    - Fees
    - Inspectors
    - Risk Profiles
      - By Fac Type
      - By Inspector
      - Health, Safety Stds
      - **By State**
      - Risk Assessment Rating Guide
    - Labels
    - LEOR
    - Financials
    - Admin
  - Monthly Reports
  - Services
  - Contacts
  - Version

Risk Profile By State Report

Add to My Reports

* Fiscal Year: - Select the fiscal year -

- Select the fiscal year -
2014
2013
2012
2011
2010
2009
2008
2007

* Facility Type:

View Report (PDF) | Cancel

Virginia Department of Social Services • 801 E. Main St.• Richmond, VA 23219 • (804) 726-7000

General Information • Privacy Policy • Other Sites of Interest • Technical Help

General comments or questions? Contact Us: citizen.services@dss.virginia.gov

By State (/DolpReports/RiskByState.do) | Local intranet | Protected Mode: Off | 125%

1:44 PM 3/10/2014