

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 530
SENATE BILL 575

AN ACT TO REQUIRE THE PAYMENT OF OUTSTANDING FINES AS A
CONDITION OF LICENSE RENEWAL FOR DOMICILIARY CARE
FACILITIES AND NURSING FACILITIES AND TO MAKE CHANGES
CONCERNING THE LICENSURE OF ELECTROLOGISTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 131E-102(c) reads as rewritten:

"(c) A license to operate a nursing home shall be annually renewed upon the filing and the Department's approval of the renewal application. A license shall not be renewed if outstanding fees 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 be available from the Department and shall contain all necessary and reasonable information that the Department may by rule require."

Sec. 2. G.S. 131D-2(b) reads as rewritten:

"(b) Licensure; inspections. –

(1) The Department of Human Resources shall inspect and license, under rules adopted by the Social Services Commission, all domiciliary homes for persons who are aged or mentally or physically disabled except those exempt in subsection (d) of this section. Licenses issued under the authority of this section shall be valid for one year from the date of issuance unless revoked earlier by the Secretary of Human Resources 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. A license shall not be renewed if outstanding 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 by rule require. The Department may also issue a provisional license to a facility, pursuant to rules adopted by the Social Services Commission, for substantial failure to comply with the provisions of this section or rules promulgated pursuant to this section. Any facility wishing to contest the issuance of a provisional license shall be entitled to an administrative hearing as provided in the Administrative Procedure Act, Chapter 150B of the

General Statutes. A petition for a contested case shall be filed within 30 days after the Department mails written notice of the issuance of the provisional license.

- (2) Any individual or corporation that establishes, conducts, manages, or operates a facility subject to licensure under this section without a license is guilty of a misdemeanor, and upon conviction shall be punishable by a fine of not more than fifty dollars (\$50.00) for the first offense and not more than five hundred dollars (\$500.00) for each subsequent offense. Each day of a continuing violation after conviction shall be considered a separate offense.
- (3) In addition, the Department may summarily suspend a license pursuant to G.S. 150B-3(c) whenever it finds substantial evidence of abuse, neglect, exploitation or any condition which presents an imminent danger to the health and safety of any resident of the home. Any facility wishing to contest summary suspension of a license shall be entitled to an administrative hearing as provided in the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 20 days after the Department mails a notice of summary suspension to the licensee.
- (4) Notwithstanding G.S. 8-53 or any other law relating to confidentiality of communications between physician and patient, in the course of an inspection conducted under subsection (b):
 - a. Department representatives may review any writing or other record concerning the admission, discharge, medication, care, medical condition, or history of any person who is or has been a resident of the facility being inspected, and
 - b. Any person involved in giving care or treatment at or through the facility may disclose information to Department representatives;unless the resident objects in writing to review of his records or disclosure of such information.

The facility, its employees and any other person interviewed in the course of an inspection shall be immune from liability for damages resulting from disclosure of any information to the Department.

The Department shall not disclose:

- a. Any confidential or privileged information obtained under this subsection unless the resident or his legal representative authorizes disclosure in writing or unless a court of competent jurisdiction orders disclosure, or
- b. The name of anyone who has furnished information concerning a facility without that person's consent.

The Department shall institute appropriate policies and procedures to ensure that unauthorized disclosure does not occur. All confidential or privileged information obtained under

this section and the names of persons providing such information shall be exempt from Chapter 132 of the General Statutes."

Sec. 3. G.S. 88A-4 reads as rewritten:

"§ 88A-4. Unlawful practice.

(a) ~~Effective November 1, 1992, January 31, 1994,~~ it shall be unlawful to engage in the practice of electrolysis in this State without a license.

(b) Any violation of this Chapter shall be a misdemeanor punishable by a fine of not more than five hundred dollars (\$500.00), or imprisonment for not more than 60 days, or both."

Sec. 4. G.S. 88A-11 reads as rewritten:

"§ 88A-11. Licensure without examination.

The Board may issue a license to practice electrology, without examination, to an applicant:

- (1) Who was engaged in the practice of electrolysis in this State or another state prior to January 1, 1992, July 1, 1993, and who submits an application for licensure to the Board on or before ~~October 31, 1992.~~ January 31, 1994.
- (2) Who is certified or licensed in good standing to practice electrolysis in another state or other jurisdiction ~~if the other state or jurisdiction grants a similar exclusion to an applicant from North Carolina who applies to practice electrology in that state or jurisdiction.~~ state, provided that the other state's educational hours of instruction are equal to or greater than the hours required in this State."

Sec. 5. Sections 1 and 2 of this act become effective October 1, 1993, and apply to renewals on or after that date. The remaining sections of this act are effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives