

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 449
SENATE BILL 864

AN ACT TO REQUIRE DOMICILIARY CARE HOMES TO SUBMIT ANNUAL AUDITED REPORTS OF ACTUAL COSTS AND TO REQUIRE THE DEPARTMENT OF HUMAN RESOURCES TO ADOPT RULES TO ENSURE QUALITY OF CARE IN DOMICILIARY CARE HOMES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 131D-3 is repealed.

Sec. 2. G.S. 131D-4 is repealed.

Sec. 3. Article 1 of Chapter 131D is amended by adding the following new sections to read:

"§ 131D-4.1. Domiciliary care homes; legislative intent.

The General Assembly finds and declares that the ability to exercise personal control over one's life is fundamental to human dignity and quality of life and that dependence on others for some assistance with daily life activities should not require surrendering personal control of informed decision making or risk taking in all areas of one's life.

The General Assembly intends to ensure that domiciliary care homes provide services that assist the residents in such a way as to assure quality of life and maximum flexibility in meeting individual needs and preserving individual autonomy.

"§ 131D-4.2. Domiciliary care homes; family care homes; annual cost reports; exemptions; enforcement.

(a) Except for family care homes, domiciliary care homes with a licensed capacity of seven to twenty beds, which are licensed pursuant to this Chapter, to Chapter 122C of the General Statutes, and to Chapter 131E of the General Statutes, shall submit audited reports of actual costs to the Department at least every two years in accordance with rules adopted by the Department under G.S. 143B-10. For years in which an audited report of actual costs is not required, an annual cost report shall be submitted to the Department in accordance with rules adopted by the Department under G.S. 143B-10.

(b) Except for family care homes, domiciliary care homes with a licensed capacity of twenty-one beds or more, which are licensed pursuant to this Chapter, to Chapter 122C of the General Statutes, and to Chapter 131E of the General Statutes, shall submit annual audited reports of actual costs to the Department of Human Resources, in accordance with rules adopted by the Department under G.S. 143B-10.

(c) Family care homes shall submit annual cost reports to the Department of Human Resources, in accordance with rules adopted by the Department under G.S. 143B-10.

(d) Facilities that do not receive State/County Special Assistance or Medicaid personal care are exempt from the reporting requirements of this section.

(e) The first audited cost report shall be for the period from January 1, 1995, through September 30, 1995, and shall be due March 1, 1996. Thereafter, the annual reporting period shall be October 1 through September 30, with the annual report due by the following March 1.

(f) The Department shall have the authority to conduct audits and review audits submitted pursuant to subsections (a), (b), and (c) above.

(g) The Department may take either or both of the following actions to enforce compliance by a facility with this section, or to punish noncompliance:

(1) Seek a court order to enforce compliance;

(2) Suspend or revoke the facility's license, subject to the provisions of Chapter 150B of the General Statutes.

(h) The report documentation shall be used to adjust the domiciliary care home rate annually, an adjustment that is in addition to the annual standard adjustment for inflation as determined by the Office of State Budget and Management. The Department of Human Resources shall adopt rules for the rate-setting methodology and audited cost reports in accordance with G.S. 143B-10.

"§ 131D-4.3. Domiciliary care home rules.

(a) Pursuant to G.S. 143B-153, the Social Services Commission shall adopt rules to ensure at a minimum, but shall not be limited to, the provision of the following by domiciliary care homes:

(1) Client assessment and independent case management;

(2) A minimum of 75 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; and

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 Human Resources, 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;

(3) Monitoring and supervision of residents; and

(4) Oversight and quality of care as stated in G.S. 131D-4.1.

(b) Rules to implement this section shall be adopted as emergency rules in accordance with Chapter 150B of the General Statutes. These rules shall be in effect no later than January 1, 1996.

(c) The Department may suspend or revoke a facility's license, subject to the provisions of Chapter 150B, to enforce compliance by a facility with this section or to punish noncompliance."

Sec. 4. G.S. 143B-153(3) reads as rewritten:

"(3) The Social Services Commission shall have the power and duty to establish and adopt standards:

- a. For the inspection and licensing of maternity homes as provided by G.S. 131D-1;
- b. For the inspection and licensing of domiciliary homes for aged or disabled persons as provided by G.S. 131D-2(b) and for personnel requirements of staff employed in domiciliary homes. ~~Any proposed personnel requirements that would impose additional costs on owners of domiciliary homes shall be reviewed by the Joint Legislative Commission on Governmental Operations before they are adopted;~~ homes;
- c. For the inspection and licensing of child-care institutions as provided by G.S. 131D-10.5;
- d. For the inspection and operation of jails or local confinement facilities as provided by G.S. 153A-220 and Article 2 of Chapter 131D of the General Statutes of the State of North Carolina;
- e. Repealed by Session Laws 1981, c. 562, s. 7.
- f. For the regulation and licensing of charitable organizations, professional fund-raising counsel and professional solicitors as provided by Chapter 131D of the General Statutes of the State of North Carolina."

Sec. 5. The Department shall make progress reports on the implementation of this act by October 1, 1995, and March 1, 1996, to the North Carolina Study Commission on Aging established pursuant to Article 21 of Chapter 120 of the General Statutes. Prior to June 30, 1999, the Department shall evaluate the effects of this act and shall report to the Joint Legislative Commission on Governmental Operations and the Study Commission on Aging on the feasibility of continuing the requirements established in this act.

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 18th day of July, 1995.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives