

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 198
Second Edition Engrossed 3/24/99

Short Title: Adult Care Home Licensure.

(Public)

Sponsors: Senators Carter; Albertson, Ballance, Clodfelter, Cooper, Dalton, Forrester, Foxx, Gulley, Hagan, Harris, Jordan, Kinnaird, Lee, Martin of Guilford, Metcalf, Perdue, Rand, Reeves, Robinson, Soles, Warren, Weinstein, and Wellons.

Referred to: Health Care.

March 1, 1999

A BILL TO BE ENTITLED

1 AN ACT PERTAINING TO THE ISSUANCE OF A NEW ADULT CARE HOME
2 LICENSE TO AN APPLICANT WHO WAS THE LICENSEE OR
3 ADMINISTRATOR OF AN ADULT CARE HOME THE LICENSE OF WHICH
4 HAD BEEN REVOKED OR DOWNGRADED TO PROVISIONAL STATUS OR
5 AGAINST WHICH A TYPE A PENALTY HAD BEEN ASSESSED.
6

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 131D-2(b)(1) reads as rewritten:

9 "(b) Licensure; inspections. –

10 (1) The Department of Health and Human Services shall inspect and
11 license, under rules adopted by the Social Services Commission, all
12 adult care homes for persons who are aged or mentally or physically
13 disabled except those exempt in subsection (c) of this section. Licenses
14 issued under the authority of this section shall be valid for one year from
15 the date of issuance unless revoked earlier by the Secretary of Health
16 and Human Services for failure to comply with any part of this section
17 or any rules adopted hereunder. ~~No new license shall be issued for any~~

1 ~~domiciliary home whose administrator was the administrator for any~~
2 ~~domiciliary home [adult care home] that had its license revoked until one full~~
3 ~~year after the date of revocation.~~ Licenses shall be renewed annually upon
4 filing and the Department's approval of the renewal application. A
5 license shall not be renewed if outstanding fines and penalties imposed
6 by the State against the home have not been paid. Fines and penalties
7 for which an appeal is pending are exempt from consideration. The
8 renewal application shall contain all necessary and reasonable
9 information that the Department may by rule require. The Department
10 may amend a license by reducing it from a full license to a provisional
11 license whenever the Department finds that:

- 12 a. The licensee has substantially failed to comply with the
13 provisions of Articles 1 and 3 of Chapter 131D of the General
14 Statutes and the rules adopted pursuant to these Articles;
- 15 b. There is a reasonable probability that the licensee can remedy the
16 licensure deficiencies within a reasonable length of time; and
- 17 c. There is a reasonable probability that the licensee will be able
18 thereafter to remain in compliance with the licensure rules for the
19 foreseeable future.

20 The Department may revoke a license whenever:

- 21 a. The Department finds that:
 - 22 1. The licensee has substantially failed to comply with the
23 provisions of Articles 1 and 3 of Chapter 131D of the
24 General Statutes and the rules adopted pursuant to these
25 Articles; and
 - 26 2. It is not reasonably probable that the licensee can remedy
27 the licensure deficiencies within a reasonable length of
28 time; or
- 29 b. The Department finds that:
 - 30 1. The licensee has substantially failed to comply with the
31 provisions of Articles 1 and 3 of Chapter 131D of the
32 General Statutes and the rules adopted pursuant to these
33 Articles; and
 - 34 2. Although the licensee may be able to remedy the
35 deficiencies within a reasonable time, it is not reasonably
36 probable that the licensee will be able to remain in
37 compliance with licensure rules for the foreseeable future;
38 or
- 39 c. The Department finds that the licensee has failed to comply with
40 the provisions of Articles 1 and 3 of Chapter 131D of the General
41 Statutes and the rules adopted pursuant to these Articles, and the
42 failure to comply endangered the health, safety, or welfare of the
43 patients in the facility.

1 The Department may also issue a provisional license to a facility,
2 pursuant to rules adopted by the Social Services Commission, for
3 substantial failure to comply with the provisions of this section or rules
4 promulgated pursuant to this section. Any facility wishing to contest the
5 issuance of a provisional license shall be entitled to an administrative
6 hearing as provided in the Administrative Procedure Act, Chapter 150B
7 of the General Statutes. A petition for a contested case shall be filed
8 within 30 days after the Department mails written notice of the issuance
9 of the provisional license."

10 Section 2. G.S. 131D-2(b) is amended by adding the following subdivision to
11 read:

12 "(1b) No new license shall be issued for any adult care home to an applicant for
13 licensure who:

- 14 a. Was the administrator, licensee, or owner of an adult care home that had
15 its license revoked until one full year after the date of revocation;
16 b. Is the administrator, licensee, or owner of an adult care home that was
17 assessed a penalty for a Type A or Type B violation until the earlier of
18 one year from the date the penalty was assessed or until the home has
19 substantially complied with the correction plan established pursuant to
20 G.S. 131D-34 and substantial compliance has been certified by the
21 Department; or
22 c. Is the administrator, licensee, or owner of an adult care home that had
23 its license summarily suspended or downgraded to provisional status as
24 a result of Type A or B violations until six months from the date of
25 reinstatement of the license, restoration from provisional to full
26 licensure, or termination of the provisional license, as applicable.

27 An applicant for new licensure may appeal a denial of certification of substantial
28 compliance under subparagraph b. of this subdivision by filing with the Department a
29 request for review by the Secretary within 10 days of the date of denial of the
30 certification. Within 10 days of receipt of the request for review the Secretary shall issue
31 to the applicant a written determination that either denies certification of substantial
32 compliance or certifies substantial compliance. The decision of the Secretary is final."

33 Section 3. This act is effective when it becomes law and applies to license
34 applications filed on or after that date. The Social Services Commission and the
35 Secretary of Health and Human Services may adopt temporary rules pursuant to Chapter
36 150B to implement this act.